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AMERICAN POLICIES ABROAD

OPINIONS EXPRESSED FOR
THE CHICAGO COUNCIL
ON FOREIGN RELATIONS

MEXICO

THE UNIVERSITY OF CHICAGO PRESS, CHICAGO

THE BAKER & TAYLOR CO., NEW YORK; THE MACMILLAN COMPANY OF CANADA, LIMITED, TORONTO; THE CAMBRIDGE UNIVERSITY PRESS, LONDON; THE MARUZEN-KABUSHIKI-KAISHA, TOKYO, OSAKA, KYOTO, FUKUOKA, SENDAI; THE COMMERCIAL PRESS, LIMITED, SHANGHAI

American Policies Abroad

MEXICO

By

J. FRED RIPPY
JOSÉ VASCONCELOS
GUY STEVENS

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO · ILLINOIS

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COMPOSED AND PRINTED BY THE UNIVERSITY OF
CHICAGO PRESS, CHICAGO, ILLINOIS, U.S.A.

PREFACE

The Chicago Council on Foreign Relations intends to publish a series of small volumes on American foreign policy. This book on Mexico is the first in the series.

The purpose of the series is to give the fundamental elements of each general problem which is discussed and also to present different points of view in respect to such problems. In this way, it is expected that each book in the series will be valuable to students and stimulating to the general reader.

The fundamental elements will be treated in each volume by the best experts available and in a dispassionate way. Numerous references will be given to sources of information and a Bibliography published. In this volume the fundamental elements are given in Professor J. Fred Rippy's historical treatment with which the book opens. Dr. Rippy is the author of *The United States and Mexico* (1926) and *Latin America in World Politics—an Outline Survey* (1928).

It is not intended that the other contributors to the volumes enter into a debate or that they discuss all points of view. No debate would be possible in a field so large as that

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which must necessarily be covered in each volume. The volume is also too small for a presentation or analysis of all possible phases or solutions of the problems presented. It is therefore our purpose, in addition to the historical and fundamental material, merely to present widely divergent views written by those who have in some way been vitally connected with the subject matter in question and whose attitude is more or less typical of a much larger class of persons.

For this volume Mr. José Vasconcelos has written a colorful exposition of the attitude of an intelligent and liberal Mexican citizen. Mr. Vasconcelos was formerly secretary of education of Mexico and is the author of many books, including *Aspects of Mexican Civilization* (1926). He is recognized as a leading exponent of Latin-American culture.

Mr. Guy Stevens presents a carefully reasoned and sober analysis from the point of view of the American investor. Mr. Stevens has for several years been director of the Association of Producers of Petroleum in Mexico.

The Chicago Council on Foreign Relations has arranged this series and presents this volume to the public. But the Council is in no sense a propaganda organization. We seek to advance no theory of our relations to Mexico or to make any statement as to whether our record so far has been worthy of praise or of blame. We take no responsibility in this vol-

ume excepting only to say that we believe the fundamental historical material to be accurate and the views of all contributors to be sincere.

Chicago Council on
Foreign Relations

140 South Dearborn Street
Chicago, Illinois
June 1, 1928

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THE UNITED STATES AND MEXICO
1910–27

J. FRED RIPPY

March 30, 1928

THE UNITED STATES AND MEXICO, 1910–27

INTRODUCTION

Many who witnessed the dazzling centennial celebration which took place in Mexico City in September, 1910, came away with the feeling that Mexico had permanently taken her place among the advanced nations of the Western world. It was an impressive occasion.

For the entire month the "asphalt section" of Mexico's capital was cleared of its twelve hundred beggars and dressed in its party clothes. Receptions, banquets, parades—all the spectacular extravagances of a nation's festival—filled the days and nights with . . . . rejoicing. The most beautiful women from interior and coast cities and from the haciendas of the "hot country" were gathered in Mexico City and distributed like flowers to grace a thousand entertainments.

Special envoys from all the great nations and most of the little ones of Europe, Asia, Africa and every variety of America—torrid, temperate and frozen—were present to participate in the events that marked the realization in Mexico of the fabled golden age. . . . . Such honors as come only to the exalted were heaped upon Porfirio Díaz. He was "the Moses and Joshua of his people" by the phrase of Andrew Carnegie, "the prodigy of nature" according to Tolstoy, a personage "to be held up to

the hero worship of mankind," as Elihu Root expressed it.

Outwardly, and particularly from the material viewpoint, all seemed well. The foreign trade of Mexico amounted to about two hundred and fifty million dollars. Foreign capital in the sum of three billion had been invested in the country. Its rich natural resources were being rapidly developed. Some fifteen thousand miles of railway had been constructed, and many more miles were under way. The postal and telegraph systems were good. Finances were in an excellent condition. Outstanding obligations were being promptly met, the national debt was being refunded on a 4 per cent basis, and there was a surplus in the treasury. Peace and prosperity appeared to reign supreme.

Quickly the thirty September days of bunting and glitter and military show, the thirty blazing nights of electrical effulgence toned to tenderness in the seclusion of patio and boudoir . . . . floated away. . . . . The President's ball, that Belshazzar feast of the Díaz régime, at which Mexico's monarch aided by seven thousand of his richly attired people received the gold-laced diplomats of the world— that revel where twenty carloads of champagne were poured out by five hundred picturesquely costumed servitors in rivers and lakes of wine— . . . . went flaring into the past.

And with it soon went the glory of the age of Don Porfirio.

For despite this gorgeous display there was much that was unsound and even dangerous in Mexico. With a population predominantly rural and agricultural, not more than 3 per cent of Mexico's heads of families owned land of any sort. Three million agricultural laborers were receiving an average wage of some thirty-five cents per day. Many of them were in a state of peonage not far removed from slavery, some literally wearing their lives away on the tobacco and *henequen* plantations of the National Valley and Yucatán. In the industries wages were only a little better. More than 80 per cent of the people were illiterate, and twenty-one thousand teachers ministered very inadequately to the needs of between two and three million children and youths of school age. Hundreds of beggars infested the streets of the leading cities, and a few score of *pulque* growers, and as many middle men who sold the beverage, corrupted the urban proletariat, collecting four million dollars annually and paying the government a tax of one-eighth of this sum. Where there were ears to hear, rumblings of discontent might be heard, but the government had closed both its eyes and its ears. The octogenarian dictator had surrounded himself by seniles and sycophants. Neither strength nor sane and progressive advice were to be had. Legislators had long since acquired the habit of submerging their personalities. The opposition press was silent.

> The old fogies of the cabinet, grown stiff with age and inaction, were worse than useless. The army was honey-combed with padded muster rolls and petty larceny. More than half the roster were men of straw who were clothed and armed at regular rates, but from whom no bugler, not even Gabriel himself, could bring forth an answering "here."

Only a reformer or a demagogue was needed to assemble the discontented masses and hurl them against this shell of a government. Then the era of Porfirio Díaz would be brought speedily to an end.

The man, in fact, had already appeared. Even as the Mexican élite and the gilded diplomats dined and wined and indulged in pleasant nonsense, the handwriting of fate might have been seen. During the elaborate festivities Francisco Madero, Jr., was held under guard in San Luis Potosí for having criticized the Díaz rule and spoken indiscreetly to the people of reform, but the Madero idea had gone abroad. The more virile and liberty-loving peons of the north were waiting to hail him as a messiah, while the impoverished and debauched rabble of the cities were ready to be seduced by his utopian promises. Fifty days later, having obtained release, he began to marshal the hosts of his native Chihuahua. The hollow sham that was the Díaz government soon revealed its true nature. Eleventh-hour compromises availed nothing. The army of the apostle moved irresistibly upon the capital.

On the morning of May 25, 1911, the broken dictator arose from his bed and with palsied hand steadied by his wife, signed his abdication. On the early morning of the next day he and his family boarded a special guarded train for Vera Cruz and Europe.

At three o'clock on June 7 Madero began his triumphal march through the the streets of Mexico City. Already, on his way down from his ancestral home, he had experienced "three days of continual plaudits and adoration, such as only the Roman emperors knew. . . . . People came from far and near, in all sorts of conveyances or on foot, just to see him, to hear his voice, even to touch his garments for help and healing." As he now made his way slowly along the streets of the capital city adulation and applause knew no bounds. A none too friendly observer could think of no more fitting simile than that of the Messiah entering Jerusalem.

> The only thing they didn't shout was "Hosanna." The roofs were black with people along his route. Many threw flowers and green branches as he passed. . . . . The equestrian statue of Charles IV in the Plaza, ... was alive with people, who clung all over it, climbing to the top, sitting on Charles's head, hanging to his horse's tail.

Although Madero was too ill to make a speech, the crowd was so "intent upon its own experiences" that it did not "feel any lack." The presence of the "redeemer" was sufficient. It

was evidently a unique scene and a splendid demonstration of mass psychology.

These strange events were, moreover, full of interest and significance for the United States. Its trade with Mexico amounted to about $117,000,000 annually, and the investments of its citizens in Mexican enterprises were valued at more than a billion. Somewhere between forty thousand and seventy-five thousand Americans had established their homes in the country. For almost two thousand miles our frontier was bordered by Mexico. From the viewpoint of national self-interest the United States could not afford to be indifferent to these events.

Nor could the international phases of the matter be overlooked. English subjects had investment and trade interests in Mexico only second to those of Americans, and German and French nationals were deeply involved. Impatience in Europe might lead to action involving a threat to the Monroe Doctrine or compel the United States to take Mexico in hand. Furthermore, if the Washington government should be forced to intervene, it might do so at the risk of offending Latin America.

Of course no serious trouble need result provided the Mexican people exercised moderation or Madero had the power to hold them in check. But there was ample room for uneasiness on just these points. The new liberty of these long-suppressed masses was intoxicating. They were too impatient long to await the new heaven

and new earth which their messiah had promised. The ditty which began to be heard on the streets of Mexico City in July—"Little work, much money, cheap *pulque*, long live Madero" —was not reassuring. There was something in the movement which was at once anti-capitalistic and anti-foreign. Could it be controlled and guided so as to avoid serious injury to foreigners and their vested interests? Upon such control the attitude and policy of the United States would largely depend. Officials at Washington and American agents in Mexico appeared not to be overconfident with respect to the little dark man, with the great brown eyes, the neat mustache and beard, the impractical forehead, and the perennial smile, who had so recently become the hero and apostle of the Mexican people.[1]*

THE MEXICAN POLICY OF THE TAFT ADMINISTRATION

President Taft was on board the U.S. S.S. "Tennessee" and at sea when the Mexican Revolution broke out in November, 1910. The uprising was heralded by violent denunciation of the United States and its nationals in the newspapers of Mexico City and by anti-American riots in various parts of the republic. Taft telegraphed Díaz through the Mexican Embassy at Washington, expressing confidence in Don Porfirio's ability to maintain order and protect

* Numbered references appear at the end of the chapter.

American citizens residing in Mexico. At the same time, Henry Lane Wilson, ambassador of the United States at Mexico City, had numerous interviews with Díaz and the Minister of Foreign Affairs in which he urged control of the press and suppression of the rioters. The Díaz government assembled its waning strength and became very active. Anti-American sentiment soon subsided or became latent.

Meantime, the diplomatic agents of Don Porfirio's government were complaining of the failure of the United States to maintain neutrality. They alleged that the revolution against Díaz was being hatched, planned, and equipped on American soil—and there was much truth in their allegation. Owing to the large amount of personal liberty permitted under the American system of government, to antiquated neutrality laws, and to the rugged and desert nature of the frontier region, it was comparatively easy for the insurgents to carry on propaganda, collect munitions and supplies, and even to organize their forces upon United States soil. Their operations were further facilitated by widespread sympathy among the border inhabitants and possibly by the indifference of some of the frontier officials of the United States government. In this situation there was nothing exceptional, however. Many a Mexican revolution had been organized in part within the territory of the United States, and that of Díaz himself had been one of them.

The unique feature of the affair now under consideration was the slowness with which the United States came to the realization that it was failing to meet its international obligations. As early as November 19, 1910, the Díaz government began to urge the United States to guard its frontier by "mobilizing the necessary forces." But it was not until the early days of the following March that extra troops were sent to the international border, and even then they were dispatched mainly for "maneuvers" and in order that they might be in readiness to invade Mexico and protect American life and property in case such a step should be deemed necessary.

This dilatory policy led the critics of the Taft administration to declare that the President, or, at any rate, Secretary of State Knox and Ambassador Wilson, were not unwilling to see Díaz overthrown. These critics charged that the Mexican dictator had in his old days given offense to certain powerful captains of industry who had the ear of the Taft government through Henry W. Taft (the brother of the President), through Attorney-General George W. Wickersham, and through Secretary Knox himself. These powerful interests had determined, they said, to unseat Díaz, and were glad to take advantage of the general discontent in Mexico to effect their purposes. Of course the critics did not make the preposterous allegation that such interests pre-

ferred the radical dreamer Madero to Díaz or a man of his stripe. These captains of industry merely accepted Madero temporarily as the most available leader. Their choice and the choice of Taft and Knox was De la Barra, whom they expected to seize the reins of power and turn Madero aside at the opportune moment.

This explanation of the delay of the Taft administration in adopting measures which would fulfil to the limit its neutrality obligations can neither be proved nor disproved at this time. There is good evidence that De la Barra was the choice of Taft and Knox,[2] and it seems significant that United States troops were not sent to the border until it appeared certain that Díaz would be driven from power. Did it accord with the purpose of the Taft administration to use the army in order to hamper the movement of the insurgents only after De la Barra had started on the path which led him directly to the portfolio of foreign affairs and the presidency? This version of the affair should not be pressed too far. The Department of Justice under Taft had co-operated with Díaz for some time prior to the revolutionary outbreak, giving it assistance in the suppression of propaganda and of treasonable acts and utterance of Mexicans on American soil, and the Department had been severely criticized for its pains. In fact, a congressional investigation of its conduct had been demanded. Moreover, too great zeal on the southwest-

ern frontier and the dispatch of an unwonted number of troops might have intensified the Yankeephobia sentiment in Mexico and resulted in great injury to American life and property south of the Rio Grande. And, lastly, it should be noted that the international obligations of the United States were not totally neglected during the early stages of the Mexican Revolution, and that Mexico expected too much of the United States. The Díaz government would probably have been overthrown if the United States had guarded every foot of its frontier. Whatever the true explanation of Taft's conduct, the fact remains that the neutrality of the United States was enforced during the spring and summer of 1911 to a degree far beyond that of the previous four months.

It might also appear very significant that most of the troops of the United States were withdrawn from the frontier in August, 1911, after a personal conference with Henry Lane Wilson and after the Chargé of the United States in Mexico had reported the general belief among Mexicans of the capital that Madero was bound to succeed in the November elections. Were the soldiers called away in order that the anti-Maderistas might have free rein? One may find here reason for suspicion. Yet it must be remembered that conditions in Mexico were comparatively quiet at this time. It should also be noted that Ambassador Wilson "earnestly" recommended on November 15,

after Madero was already in power, that "energetic measures be taken on the border and . . . . every possible assistance compatible with our laws be given to the Mexican Government."[3] And lastly, it should not be forgotten that the revolutionary projects of Bernardo Reyes at San Antonio, Texas, were greatly hampered at this very time by the vigilance of the federal officers of the United States, Reyes having been compelled to surrender to the Madero authorities near the close of the year.

In fact, by the beginning of the year 1912 Madero found himself more embarrassed by the zeal of the United States in guarding its frontier than by its indifference to matters of neutrality. Early in January "several newspapers of the capital" (Mexico City) published articles which charged that Madero had received assistance from the government of the United States in overthrowing General Díaz and establishing himself in power, and that for this reason he now found himself unduly obligated to the United States. Two weeks later Ambassador Wilson called attention to "venomous attacks" upon Madero and his Cabinet, to "exaggerated stories of political and financial intrigue," and to bitter denunciations of "the United States in its relations with Mexico. . . . ." At the same time he reported revolutionary movements against the established order in some five or six states and maltreatment of Americans in as many more. Apparently Yankee-

phobia was becoming a potent factor. Well might Madero have prayed to be saved from his friends!

Indeed, the apostle of the Mexican masses soon had reason to question the sincerity of the friendship of the Washington government. On February 4, 1912, President Taft ordered the concentration of one hundred thousand troops, regulars and volunteers, on the Mexican border. Twenty days later Acting Secretary of State Huntington Wilson and Ambassador Wilson exchanged telegrams discussing the advisability of intervention. The news reached the papers of both countries. Moreover, on March 2 Ambassador Wilson was instructed at his discretion to advise Americans to withdraw from certain zones of danger which he might designate. The Ambassador published the substance of his instructions in the dailies of Mexico City and warned Americans to remove from so many sections that the advice was construed to apply to almost the entire country! These steps were interpreted as indicative of lack of faith in, and even of hostility toward, Madero. Opponents of the Madero régime in Mexico are said to have been greatly stimulated. The editor of one of the American newspapers in Mexico City declared that "no honest man, no friend of peace and order, received encouragement or help, but the children of the Devil ran riot."[4] Worse still, any move on the part of the Madero government to capitalize the situation was partially

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estopped by two proclamations of President Taft. The first of these (March 2) warned Americans not to participate in the revolutionary disorders of Mexico. The other (March 14) assumed more rigid executive control of the exportation of arms and munitions and contained a hint of the possibility that the authority of the American President might be exercised to the advantage of Madero. In view of these demonstrations of "favoritism," it would seem futile for the Madero administration to seek new strength by sounding the anti-Yankee note and posing as the victim of American persecution.

A month later, however, Madero found himself in a more favorable position. Taft not only had prevented the *insurrectos* of Northern Mexico from importing arms while granting this privilege to the followers of Madero, but he had permitted Madero to transport troops across the United States for the purpose of attacking the insurgents. This had aroused the ire of Pascual Orozco and other chiefs, and they had immediately assumed a more truculent attitude, seizing American mails, committing depredations upon American property, killing and wounding American nationals, and refusing to take cognizance of the protests of American consuls. This led to vigorous remonstrance on the part of the United States. On April 15 Henry Lane Wilson handed the Mexican gov-

ernment a drastic note couched in the following language:

> The enormous and constantly increasing destruction of valuable American properties, ... the taking of American life contrary to the principles governing among civilized nations, the increasing dangers to which all American citizens in Mexico are subjected, and the seemingly possible indefinite continuance of this unfortunate situation, compel the Government of the United States to give notice that it expects and must demand that American life and property . . . . be justly and adequately protected and that it must hold Mexico and the Mexican people responsible for all wanton and illegal acts sacrificing or endangering American life or property. . . . .

Wilson also issued a warning to those Mexicans who were circulating false rumors and instigating attacks upon Americans, and expressed alarm at the report that General Villa intended to execute all Americans captured from the armies of the insurgents. The remonstrance concluded with a quotation from a recent note to Orozco, in which a protest was made against the "practical murder" of an American and notice served that "any maltreatment of any American citizen" would be "deeply resented" by the United States and "must be fully answered for by the Mexican people. . . . ."[5]

The transmission of this note and its publication in the newspapers of the United States gave the Madero government an opportunity

to represent itself as a defiant victim of Yankee ruthlessness. Pedro Lascurain, Mexican minister of foreign affairs, proceeded immediately to capitalize the situation. On April 17 he replied to Wilson's note and handed the note and the text of the reply to the Mexican press. Lascurain said:

> The Mexican Government is fully cognizant of its duties. . . . . It finds itself under the painful necessity of not recognizing the right of your Government to give the warning which the aforesaid note contains, since it is not based upon any action imputable to the Mexican Government signifying that it has departed from the observance of the principles and practices of international law.
>
> Since one part of the country is in a state of revolution the Mexican Government holds as its principal duty the suppression of the rebel movement, and if in the regions which have removed themselves from obedience to the legitimate authorities attempts are made against the lives and property of foreigners the legitimate Government of the Republic will not be liable in this regard except under the same conditions as the Government of the United States or that of any other country would be if a rebellion arose in its own territory.

Lascurain then proceeded to pledge Mexico to abide by international law and the laws of the Mexican nation in the treatment of Americans and other foreigners who might be among the prisoners captured from the rebel forces. He also deplored the continuance of disorders in Mexico, as well as the injuries to foreigners

which attended the disturbances and the baseless rumors spread by some Mexican newspapers and certain sections of the press of all countries. He declared, finally, that it was the settled policy of the Mexican government to punish the Mexican perpetrators of outrages against foreigners, but he denied that the Mexican government and people could be held responsible for the "rebel leader," Orozco, in the sense implied by the American Secretary of State.[6]

This diplomatic encounter appears to have brought new support to Madero. At any rate, he revealed unusual strength during the next few months. By midsummer his troops not only had arrested Villa and sent him to Mexico City for trial, but also had virtually annihilated the insurgents under Orozco. So great was his progress that he was able to negotiate a small loan with Speyer and Company early in June. The menaces of the State Department apparently had come at an opportune time. Yet the main purpose of that Department in the spring and summer of 1912 appears to have been to furnish protection to American citizens and to mend its political fences in view of the coming election. And its exertions at this juncture did not end with the note of April 15. War vessels were sent to the various ports of the Atlantic and Pacific coasts of Mexico in order to furnish transportation to American citizens who de-

sired to leave the country and to serve as a warning to the Mexican people.

The effectiveness of this procedure in shielding American life and property seems to have been very doubtful. Not only were the rebels of the north irritated by the "favoritism" of the Washington government toward Madero in the matter of importing arms and munitions; in other sections likewise the menacing attitude of the United States appeared to be only so much oil on the flames of Yankeephobia. Something had to be done, however, and this was the line of policy which the Taft administration had decided to adopt.

Nor did the defeat and dispersal of the insurgents of the north in July and August bring peace to Mexico or add greatly to the security of American life and interests in the country. The defeated rebels of the north split up into numerous small bands ranging in size from one hundred to one thousand men and resorted to robbery, murder, and pillage. In the south, in the states of Puebla, Oaxaca, Morelos, Guerrero, and Mexico, the country was being terrorized and laid waste by Zapata and his followers. Elsewhere there were no large revolutionary organizations, but the government had broken down in numerous regions, and chaos appeared to impend. Indeed, if one may believe Henry Lane Wilson, American life and property in Mexico were in greater peril in the month of August, 1912, than ever before. The Ambas-

sador complained at this time of the numerous outrages committed against American citizens—the increasing frequency of murders, arrests, and imprisonments on frivolous charges, and the illegal and unjust seizures of American property. He declared that conditions were rapidly becoming intolerable. Wilson said:

> This phase of the situation here is arousing profound indignation among the Americans resident in Mexico and, if I may judge by the number of letters received by the Embassy and by the utterances of the American press, criticism and dangerous public opinion in the United States. . . . . I feel that usual diplomatic methods have failed . . . . and I fear that, unless some well-defined and positive course is adopted, the injustice, abuses, and murders of American citizens will increase in number.

In fact, the Ambassador went so far as to accuse the Madero government, nominally pro-American and suffering from its supposed pro-Americanism as it was, of "really conducting a campaign against American interests in Mexico" apparently designed "to make the members of the Madero family and the personal and political adherents thereof the beneficiaries of American loss." Such a charge was exceedingly grave and, taken in connection with certain previous and subsequent reports of Wilson, tends to arouse a strong suspicion of personal grudge or ulterior motives.

Wilson's report found President Taft in no squeamish mood, however. His mild patience

in dealing with Mexico had long been criticized by the press and certain elements in Congress. As early as the middle of April, 1911, Senator William J. Stone, Democrat from Missouri, had demanded a more energetic Mexican policy. His protest had been called forth mainly by the injury of American citizens during battles between the Mexican government and insurgents in the vicinity of El Paso, Texas, and Douglas, Arizona. He took occasion, however, to refer to the strong anti-American sentiment in Mexico, the injuries suffered by Americans residing in the country, the growing impatience of European powers, and the interruption by Mexican rebels of the Colorado River irrigation project. He demanded that a committee be appointed to make inquiries and recommendations. This attack proved to be a mere tempest in a teapot, however. No one came to Stone's support, and such prominent Senators as Bacon, Lodge, and Root upheld the President's policy, urging a kindly sympathy for Mexico. But by the summer of the following year conditions had considerably changed. As hundreds and even thousands of American refugees, pursuant to the advice of the Taft administration, made their way to the United States, a wave of sympathetic irritation passed over the country, and this sentiment was but deepened by reports of injuries and outrages which appeared in American newspapers. A portion of the press soon began to demand intervention. Congress

made appropriations for transporting, sheltering, and feeding the refugees, and directed the Secretary of War "to investigate the claims of American citizens for damages suffered within American territory and growing out of the . . . . insurrection in Mexico." Moreover, Senator Albert Fall began in July to demand protection for the persons and property of citizens of the United States south of the Rio Grande, and Senator Smith of Arizona revealed a growing impatience. As important as any other feature of the situation, furthermore, was the fact that the national campaign of 1912 had already begun and the Democratic platform had pledged the party to protect its nationals abroad. The time for more vigorous action had arrived.

The Taft administration accordingly began to take steps which indicated a resolution to bring Mexico to terms. On September 2 the American Ambassador was instructed to demand that the Mexican government establish adequate garrisons along the northern frontier from Matamoras to Mexicali, and even to designate the number of troops which the United States deemed necessary for preventing uprisings in the region and protecting the American inhabitants across the border in the United States. A garrison was also requested for the protection of the Mormon colonies in Chihuahua.

Two days later Taft had a grave interview with the Mexican Ambassador at Washington, who was on the point of departing for Mexico

City. Referring to the proclamation of March 14, 1911, and the benefits which it conferred upon the Madero administration, the President pointed out how friendly and patient he had been toward Mexico. He declared that in return for all this "we had a right to expect a more hearty consideration for all American interests in Mexico." He "spoke solemnly of his duty to the American people . . . . and also of the duty of the Madero administration to vindicate his [patient] policy by a satisfactory attitude." The President even went so far as to say that if things went on from bad to worse there would be no course open to him in the discharge of his duties but to summon Congress and ask them to consider how the situation should be dealt with. Señor Calero, the Mexican ambassador, appeared to be a "good deal worried." "He spoke energetically about the bad feeling caused by Senator Fall's speech and by the Magdalena Bay legislation. The President disavowed any sympathy for either and remarked that . . . . it was not the Senate but the Executive which conducted our foreign relations." Moreover, at this point Huntington Wilson, acting secretary of state, who had been present during the interview, came to Taft's support, remarking that the Lodge Resolution against the alienation of Magdalena Bay and Fall's oratory had little to do with the specific matter at issue, and pointing out that murderers were going unpunished in Mexico, that too

much anti-American sentiment was being revealed even in government quarters, and that the Madero régime was really lacking in zeal and energy. Taft then remarked that Mexico must not assume that his patience was perennial, and urged Calero to use his influence to bring about an improvement in the situation. The Ambassador, somewhat cowed and, as the sequel was to reveal, out of sympathy with the Madero movement, could only apologize for conditions in Mexico and speak "rather disparagingly of their Indian population, their inheritance of Spanish and Indian traits, their unfitness for democratic institutions, and the consequent enormously difficult problems they had to face."[7]

On September 5 Huntington Wilson instructed Henry Lane Wilson to present to the Mexican government a note which amounted virtually to an ultimatum. The Ambassador, in accordance with his instructions, made some revisions in the original draft and then transmitted it to the Mexican Minister of Foreign Affairs on September 17, the process of revision being hastened because of the rumor that the Madero government was on the point of being overthrown by a coup d'état.[8] That the procedure of the Taft administration was taken with the national campaign in mind appears to be indicated by the fact that news of a contemplated change in policy was permitted to find its way into the papers.

The final draft as presented to the Mexican government by Ambassador Wilson listed by name seventeen citizens of the United States whose Mexican murderers had been allowed to go unpunished. Reference was also made to "other cases (which need not here be set down)." Against such indifference and inefficiency vigorous protest was uttered. At the same time it was announced that the United States was no longer disposed to permit its nationals "constantly to be made the objects of the tyranny of petty local authorities, or of intrigue or anti-American sentiment." The *Mexican Herald*, a newspaper owned by Americans, and the Associated Press had been the victims of unfair treatment; Americans interested in a colonization company (the Tlahualilo of Durango) had suffered injustice on account of an adverse court decision rendered under pressure "from official quarters"; American oil interests in the vicinity of Tampico were being "taxed almost beyond endurance"; an attempt was being made to annul the concession of the Mexican National Packing Company in which "twelve hundred odd American stockholders" were indirectly interested—these instances were mentioned as illustrative and most recent. They did not "by any means constitute all which might be made the subject of remonstrance." This "predatory persecution, amounting practically to confiscation," must "cease forthwith," said Wilson. "The

administration in Mexico must bestir itself to fulfill its international duties toward American citizens and their interests" or the United States would no longer forbid the exportation of arms to those in rebellion against the constituted authority in Mexico. Moreover, a still further threat was brandished. Wilson declared that

> the time has [had] come when the administration at Mexico City . . . . must either demonstrate its determination and ability to handle the situation by the early establishment of order and the effective administration of law, or frankly confess that conditions are [were] such that it was powerless to do so. In the latter case it would evidently become necessary for the Government of the United States to consider what measures it should adopt to meet the requirements of the situation.

The conclusion of the note differed from an ultimatum only in that no time limit was set for a reply. It contained the following demand:

> The Government of the United States desires from your excellency as promptly as possible a comprehensive and categorical statement as to the measures the Mexican Government proposes to adopt: (I) To effect the capture and adequate punishment of the murderers of American citizens; (II) to put an end to the discriminations against American interests . . . . ; and (III) to bring about such an improvement in general conditions throughout Mexico that American settlers in that country will no

longer be subjected to the hardships and outrages attendant upon a more or less constant state of revolution, lawlessness, and chaos.[9]

The Mexican Minister of Foreign Affairs did not formally reply to this note until November 22. Meantime, Ambassador Wilson made another of his flying trips to Washington in order to give further adverse information regarding the capacity and disposition of the Madero government; and Chargé Montgomery Schuyler reported, despite the fact that the attempt of Felix Díaz to hold Vera Cruz had utterly failed, that Madero was "absolutely impotent to bring even a semblance of peace and order." Montgomery also advised that the United States should have "warships in every Mexican port, prepared to remain indefinitely." At the same time it was said that "consular officers throughout Mexico" had sent the State Department very alarming accounts of the dangers to which American nationals were exposed.[10] Accordingly, Huntington Wilson requested the Secretary of the Navy (October 25) to hold in readiness eight vessels, four for the Pacific and four for the Atlantic Coast of Mexico, this number to include the two vessels which were already at Vera Cruz and Tampico, respectively.

It was in the tensity of this situation that Pedro Lascurain, Mexican minister of foreign affairs, framed his reply to the vigorous note of September 15. It was a masterpiece. With

reference to the arrest and punishment of the Mexican murderers of American citizens, Lascurain maintained that the Mexican government had fulfilled its international obligations. Surveying briefly the seventeen cases of murder listed in Ambassador Wilson's note, he pointed out that four had occurred prior to the Madero revolution, that the Mexican Foreign Office had on file no data regarding four others, and that still three others had been prosecuted as "pernicious foreigners" who had been engaged in a filbustering enterprise in Lower California. He then stated that judicial investigation had been instituted in ten cases, three convictions having already occurred and two of the accused having been "released for want of evidence." Before closing this part of his note, he called attention to several instances of the murder and lynching of Mexicans in California and Texas and, in order to place the treatment of American nationals in Mexico in its proper light, he reminded Wilson that while three Americans had been killed in Mexico during the single month of September, 1910, when Díaz was in power, only three had been the victims of violence in the year 1911 and "three more during the present year."[11]

Taking up the charge that Mexico had evinced hostility toward American business interests south of the Rio Grande, Lascurain "most earnestly" rejected the "imputation." The difficulties of the Associated Press had been

of its own making. It had declined to enter into a satisfactory contract for the use of the telegraph wire between Laredo and Mexico City. The Mexican government had refused to grant it privileges amounting to a virtual monopoly. It would be permitted to use the wire in question when it evinced a willingness to pay the regular rates exacted from other news-collecting agencies. The manager of the *Mexican Herald* had been offended because the Madero government, in accordance with its general policy not to subsidize the press, had withdrawn its support from his journal. No order had been issued preventing the publication of the *Herald*, but another journal started by the same management had been suppressed because it had carried on "a terrific campaign against the Government" and its editor had "infringed the penal laws." The Mexican national authorities had not levied a tax on oil on account of any anti-American sentiment. They needed money to run the government and establish peace. The tax is question amounted to only three cents per barrel, and there had been no discrimination against American producers, all of them—Mexican, English, Americans, and the rest—being accorded the same treatment. So likewise in the cases of the colonization company and the packing company. The Madero administration was determined to give justice to all, and it invited the United States Embassy

to "disclose those other cases which might be the subject of protest."

Lascurain then turned to the demand made by the United States to be informed of the measures Mexico intended to adopt in order to pacify the country. He made some general statements as to the successes achieved by Madero in the suppression of the insurgents, declaring that it might have attained more immediate—but probably less permanent—success had it not decided to employ moral suasion and apply the law as the rule of action. He also pointed out the obvious fact that "all the countries of the world have passed through similar crises." "The United States," said the Mexican Foreign Minister, "has not been an exception to this rule. After its war of independence and the Confederate war, it had to suffer long periods of internal difficulties of all kinds. . . . ." The burden of the Mexican government might have been somewhat lightened if the United States had prevented the organization of armed expeditions in its territory and the exportation of arms and munitions to supply the insurgents. In referring to this matter he did not mean to suggest that the United States had been wanting in good will toward Mexico; he merely desired to point out that the United States had not been uniformly successful in this respect for the same reason that the Mexican government had not been more speedy in the restoration of complete order.

Both were basing their policies upon democracy and the rule of law.[12]

A few days after transmitting this note to the American Embassy, Lascurain set out for the United States. He had apparently come to the conclusion that the Mexican situation and the attitude of the Madero administration were not being correctly reported by Henry Lane Wilson and the Mexican Embassy at Washington. At any rate, he had determined to seek personal interviews with President Taft and Secretary Knox. He desired also to ascertain the "American point of view in respect to American interests in Mexico by personal conversations with individuals and corporations having interests in his country."

On January 2, 3, and 4 Lascurain had interviews with President Taft, Secretary Knox, and the Assistant Secretary of State. Knox gives an excellent summary of what occurred.

> Mr. Lascurain made a decidedly favorable impression. At the interviews with the President and at the Department it was sought to impress upon him that Mexico must protect American life and property; do justice to American citizens; restore order; respond to the great moral obligation to be especially considerate of American interests and promptly meet this Government's requests in specific cases; and, in general, exemplify that friendliness, earnestness and efficiency in protecting American interests necessary to justify before public opinion the continuance of the signally friendly and patient policy of the United States.

This last point appears to have been much emphasized. Knox told Lascurain that "great pressure had been brought upon the President and upon members of Congress for the repeal of the resolution authorizing the President, by proclamation, to forbid the exportation of arms and ammunition to Mexico that would likely fall into the hands of parties engaged in revolution in that country." The Assistant Secretary of State alluded to the great danger that public opinion would "reach a point where it could no longer be resisted." As for Lascurain, he "seemed sincerely anxious to make every effort along the lines suggested."[13]

Henry Lane Wilson embarked for Mexico before these interviews took place. Resuming his duties as ambassador and chief of the diplomatic corps in Mexico City (January 5, 1913), he began forthwith to urge and in some instances to pursue a drastic policy. Even as almost insuperable difficulties gathered thick and fast around Madero and ruin and grim death stared the reformer in the face, Wilson pressed his demands for claims upon a bankrupt government, urged Madero to resign, and apparently sought to terrorize him by the menace of armed intervention. The Ambassador had no kind word, no sympathy, for the apostle of Mexican democracy. He pronounced Madero's program utopian, and then censured him for not carrying it out. He complained of the impotence of his government, and in the same dis-

patch criticized his interference in elections and his suppression of the opposition press. Even while he denounced the Madero régime as a "wicked despotism," he argued that the Mexican people could be ruled only by a dictator. When the Taft administration expressed mild disapproval of some of his policies the Ambassador evinced a disposition to exceed his authority.

His conduct was most unprecedented during the second and third weeks of February. When the fighting between the government troops and the insurgent forces, under Felix Díaz and others, began in Mexico City, Wilson advised that "formidable warships supplied with marines should be dispatched to points on the Atlantic and the Pacific and that visible activity and alertness should be displayed on the boundary." Taft prepared to follow this advice.

On February 11 the Ambassador asked for "firm, drastic instructions, perhaps of a menacing character, to be transmitted personally to the Government of President Madero and to the leaders of the revolutionary movement." He declared that this step must be taken for the protection of twenty-five thousand foreigners in Mexico City, five thousand of whom were nationals of the United States. Reinforcing this request, came a telegram from Governor O. B. Colquitt of Texas demanding intervention for the purpose of restoring order, protecting Amer-

ican life and property, and upholding the Monroe Doctrine. Colquitt was informed that the President's policy would continue for the time being unchanged, and Wilson's appeal for drastic instructions was refused on the ground that the course which the Ambassador suggested might imperil Americans and their interests in Mexico, radically affect the issue of the contest for supremacy in the Mexican capital, and even lead to armed intervention.

The Ambassador then asked that the battleships soon to arrive in the Mexican ports be placed at his orders, to be employed at his discretion in case of a crisis. Moreover, while awaiting a reply he called together the diplomatic corps of Mexico City and put through a motion that one of their number should carry to Madero that body's advice that his resignation would be desirable.

This unprecedented advice was actually transmitted, but Madero declined to listen. At about the same time the Mexican President somehow got—or pretended to get—the impression that Wilson was bent upon the debarkation of American marines. He at once sent out the report to all the military and political leaders of Mexico that the United States intended to undertake immediate intervention. This called down upon the reformer the wrath of President Taft, who had refused to grant Wilson permission to employ the battleships and marines and supposed that Madero had infor-

mation of this refusal. Taft scolded the Mexican chief executive and informed him that events in Mexico during the last two years had occasioned "extreme pessimism" among Americans and given rise to the "conviction that the present paramount duty is the prompt relief of the situation." Madero may have been sincerely alarmed, and Wilson may have given him sufficient ground for alarm. On the other hand, Madero may have sounded the note of Yankeephobia at a last desperate measure. However this may be, the days of his government and even of his own life were numbered and Taft gave him no comfort in the crisis. On February 18 he was arrested through the treachery of Generals Blanquette and Huerta, officers of his own army. Two days later a provisional government with Huerta as president was installed. In the early morning of February 23 Madero and Vice-President Pino Suárez were shot while being taken under escort from the national palace to the penitentiary. If Ambassador Wilson had not aided and abetted Madero's enemies during the tragic ten days—February 9–19—he had certainly been guilty of conduct which exposed him to profound suspicion, and he had made little effort to save the life of the reformer-president.

Wilson's intemperate haste in recommending the recognition of Huerta and accepting the Huerta story of how Madero and Suárez met their death constitute a further reflection

upon his conduct. On the very day that the provisional government, headed by Huerta, was installed, the American Ambassador telegraphed the State Department a broad hint that the new régime should be granted recognition. Likewise on the same day he called his diplomatic colleagues together, and they all "agreed that the recognition of the new Government was imperative." On the day following he sent a "circular telegram to all consuls advising them of the situation and instructing them to do all possible to bring about a general acceptance of the Provisional Government." On February 24 he telegraphed Knox that he was disposed to accept the Huerta government's version of the Madero and Suárez murders and "consider it a closed incident." He asked the "co-operation of the Department in this direction." At the same time he declared that he found the new government ready and willing to settle all outstanding issues with the United States.

The Taft administration might have followed the course indicated by its Mexican Ambassador had it not been for the shock which the procedure of Huerta caused the American public. Wilson was given specific instructions on the matter of claims, and there was no remonstrance against the ruthless conduct of the military dictator, but the State Department did not officially announce its acceptance of the Huerta version of the murders, nor

did it decide upon immediate recognition. On February 28 Wilson was informed that "with practical unanimity the American press treated as inadequate the explanations made by the Huerta régime in regard to the death of Madero and Pino Suárez, and is consequently expressing its horror thereat." "Having by inadequate precautions made possible that horrible occurrence" said Knox, "those responsible can not expect to escape public suspicion, and this Department is naturally obliged to decline to express itself on that painful subject pending the results of the promised thorough judicial investigation."[14] Two days before, Wilson had been cautioned by the Secretary of State not to grant formal recognition except upon specific instruction from that Department. During the few days which remained of the Taft administration it had no occasion to change its policy. Neither did it recall the Ambassador who had been all too eager for the overthrow of Madero and the establishment of Huerta. Perhaps it could find no better means of retaliation for the defeat administered by Woodrow Wilson in the national election of the previous November!

Thus it will be observed that Taft's Mexican policy was avowedly one of non-intervention but in reality not without its interventionist phase. Neither the army nor the navy was used to coerce Mexico or to shield American life and property. Mexico was merely urged

through diplomatic channels to protect these interests, and American nationals were recalled from the zones of danger, transportation and temporary sustenance being supplied at government expense. And yet—so closely is the destiny of the two nations linked—certain steps which the Taft administration took or failed to take, whether by accident or by design, were not without influence upon the Mexican situation. The revolution which overthrew Díaz was in large measure prepared and organized within the United States, and the subsequent failure of Madero was partially due to the favoritism of the United States in the matter of arms and munitions shipments, the lack of confidence implied and engendered by Taft's warning to Americans to withdraw, and the menacing hostility of Henry Lane Wilson. It is of course impossible to determine the influence of President Taft and Ambassador Wilson upon the trend of events in Mexico. It may well be, as already suggested, that the Díaz régime would have been demolished even if American neutrality had been more strictly observed. In the same way it seems likely that the impractical Madero would have met his fate sooner or later had the attitude of Taft been less friendly at the beginning and the conduct of Henry Lane Wilson less embarrassing near the end.

At any rate, it is certain that Taft had made little contribution toward the solution of the Mexican problem when he left the White House

in March, 1913. American interests were still suffering and no indemnities had been obtained. Thanks in part to the machinations of the Ambassador who served him in Mexico City, a dictator was then in charge of the Mexican government and ready to make terms with Washington; but the dictator was a toper with bloody hands, and there was little assurance either of his continued tractability or of his power to bring permanent order to Mexico, unless it may be assumed that a stubborn minority may definitely and finally subdue fourteen million people and forever curb their aspirations.

WILSON'S MEXICAN POLICY AND ITS CRITICS[15]

In one respect the Mexican policy of Woodrow Wilson was to be similar to that of his predecessor. Taft intervened in Mexican affairs while disavowing intervention, and Wilson was likewise to do so. In most other respects the policies of the two presidents were very different and carried out under very different circumstances.

With reference to his Mexican policy Taft proceeded as a complaisant jurist and moderate imperialist, observing only the political, legal, and national aspects of the problem. The diplomatic correspondence of the last two years of Taft's administration revealed little indication that the Mexican situation was viewed in the light of Pan-America. Nor is there any

considerable evidence that Taft was vividly conscious of powerful domestic or European pressure. Some domestic pressure there was, but it would have had little weight had it not come in the midst of an arduous campaign for re-election.

Wilson took up Mexican affairs with the vision of a Pan-American and even of a world-reformer and the zeal of a Democratic crusader, but hardly with the patience of a Job. And his course was rendered more arduous by the novelty of his policy, increasing disorders in Mexico, and the growing impatience both of his constituents and of the world about him.

Immediately upon turning his attention to foreign affairs, Wilson saw clearly several facts. First, the little states of Latin America were indignant at the United States. They were "whetting their wits on the Monroe Doctrine," denouncing the United States for officious meddling in America, lamenting our cold, calculating materialism, and viewing with trembling apprehensiveness the course of our empire. Second, the powers of Europe were growing impatient with the continued disorders in Mexico. Third, Mexico's problems, whether external or internal, were similar to those of many other states of Latin America.

On March 11, 1913, he announced that he would throw the moral weight of his administration into the balance in favor of responsible

governments in Latin America. Wilson declared:

> We hold that just goverment rests always upon the consent of the governed, and that there can be no freedom without order based upon law and upon the public conscience and approval. . . . . We shall lend our influence of every kind to the realization of these principles . . . . , knowing that disorder, personal intrigue and defiance of constitutional rights weaken and discredit government and injure none so much as the people who are unfortunate enough to have their common life and their common affairs so tainted and disturbed. We can have no sympathy with those who seek to seize the power of government to advance their own personal interests or ambitions.

This was a plain announcement of determination not to recognize the heavy-handed despotism of Huerta.

Such a policy was clearly one of intervention, moral but far reaching in its consequences. Wilson had set out to unseat a dictator and help the Mexicans toward an era of democracy. In doing so he would run the risk of prolonging an era of disorder. The effectiveness of his course would depend upon the attitude of the Mexican people and of the governments both of Hispanic America and of the leading nations of Europe, all of which were showing more and more concern with reference to the Mexican situation. If all agreed to co-operate, Huerta would no doubt be doomed. If the Mexican

people resented Wilson's interference and the states of Europe and Hispanic America insisted upon the old principle of *de facto* recognition, the bibulous despot might conceivably defy the United States. The Latin-American states soon relieved his anxiety and somewhat reluctantly accepted his leadership, but not so the diplomats of Europe. By the middle of the summer (1913) all of them had recognized Huerta, and Japan had followed suit. Evidently the Great Powers were unfavorably disposed toward Wilson's new departure. Nor was Huerta's hold on the Mexicans weakened by the evident determination of Wilson to eliminate him. It is probable that a new current of Yankeephobia had set in the dictator's direction.

But Wilson's optimism was equal to almost any obstacle. Even as the European and Japanese diplomats one by one extended recognition to the *de facto* ruler of Mexico the crusading President sent John Lind to the Aztec capital with instructions designed to eliminate Huerta and pacify the country by means of a free election and the loyal acceptance of its results by all parties. Lind's mission utterly failed, European statesmen continued recalcitrant, but Wilson's purpose was in no way shaken. In the latter part of October he took the train for Mobile, Alabama. Here he addressed a Pan-American assembly and announced himself as the champion of American democracy against official economic imperial-

ism. "We have seen material interests threaten constitutional freedom in the United States," said the President. "Therefore we will know how to sympathize with those in the rest of America who have to contend with such powers, not only within their borders but from outside their borders also." This address amounted to a defiance of those European powers who, more interested in money than in morals, placed the security of the investments of their nationals above democratic progress in Mexico.

Wilson probably had designed his remarks mainly for the British government. At any rate, American diplomacy had been busy for some time in the effort to bring Sir Edward Grey around to the Wilson view on the Mexican problem. And before the close of the year 1913 Wilson had his way. Sometime in November or December Sir Lionel Carden, British ambassador at Mexico City,

> led a procession of European diplomats to General Huerta, and formally advised that warrior to yield to the American demands and withdraw from the Presidency of Mexico. The delegation informed the grim dictator that their governments were supporting the American policy and Sir Lionel brought him the unwelcome news that he could not depend upon British support

The Great Powers had at last acquiesced in Wilson's policy with reference to Huerta. Soon afterward their energies were absorbed by the

World War. The Mexican imbroglio then became strictly an American affair.

Thus freed from European pressure, Wilson could announce on December 2, 1913, that he saw no reason to depart from his policy of "watchful waiting" for the overthrow of Huerta and the achievement of order south of the Rio Grande. Yet his attitude was not strictly that of watchful waiting. In reality he gave hands and feet to his prayer against the Mexican despot. His pressure upon the European diplomats shattered Huerta's prospects for a loan. And he took an even more important step. Since the last of August, Wilson had exercised the authority conferred upon him by the law of March 14, 1912, so as to prevent each of the contesting groups from "receiving aid from this side of the border."[16] This was indeed strict neutrality. But the removal of the embargo upon arms and munitions on February 4, 1914, in order, as he remarked, that the conclusion of the fight might be hastened, hardly accorded with the attitude implied in the term "watchful waiting." It really amounted to favoritism toward Carranza, Villa, and Obregon, who were leading the anti-Huerta hosts in the north. Of similar import was the occupation of Vera Cruz in the following April. Avowedly provoked by Huerta's studied abuse of the American flag and his systematic persecution of American nationals—a quite human reaction on the part of the dictator—it was designed to

administer a humiliating rebuke, and it served to intercept the grim warrior's supply of arms and munitions. It was an effective blow delivered by a passive statesman. Victoriana Huerta soon embarked for Europe never again to set foot on Mexican soil.

All this was for the good of the Mexican people, Wilson said. If the "usurper" had been allowed to succeed, "in despite of the constitution of the Republic and the rights of its people, he would have set up nothing but a precarious and hateful power, which could have lasted but a little while, and whose eventual downfall would have left the country in a more deplorable condition than ever." But the articulate Mexicans—we know nothing of the thoughts of that pathetic 85 per cent to whom Wilson's sympathy was generously extended—showed little appreciation for the President's benevolence. They resented his occupation of Vera Cruz.

In some quarters of Latin America, Wilson was better understood however. When some of the leaders of the Mexican insurgents scolded and fulminated and the friendly occupation of Vera Cruz, which was intended neither as formal intervention nor an act of war against the Mexican people, threatened to degenerate into an ugly affair, the "A B C powers" extended a timely offer of mediation. Delighted to find a way of escape from the embarrassing situation, the President eagerly accepted the offer.

The mediation accomplished little in the pacification of Mexico, but it promoted Pan-American friendship. It also enabled Wilson to maintain the *status quo* at Vera Cruz until he could withdraw the armed forces without humiliation or serious alienation of popular support in the United States. And had not the Mexican nation been given riddance of a bloody tyrant and left free to move along the pathway of democracy and order?

During the latter half of the year 1914 and the early part of 1915 the victorious leader of the Democratic hosts of the United States watched and waited hopefully. The Mexican leaders who held the field, now that Huerta had been removed, were slow, very slow, in the arrangement of their difficulties. To one familiar with Mexican history this was to be expected. People who had been used to deciding presidential elections by terrorism and bullets could hardly be expected speedily to reach a decision to confine themselves to ballots even in response to the pressing exhortations of an ardent democrat such as Wilson. But Wilson had forgotten his Mexican history. Early in 1915 he contended that Mexico ought to be allowed to consume all the time she pleased in settling her internal troubles, but this was probably done in the enthusiasm of the high hope that she would not require long. By the middle of the year he began to lose patience. "In the very hour of their success the leaders of the

the revolution . . . . disagreed and turned their arms against one another." The President admonished them to get together and threatened drastic action. When they failed to follow the admonition he invited the diplomatic representatives of the leading states of Latin America to discuss the Mexican situation with him once more. The insurgent lead-leaders were requested to lay their cases before the assembled diplomats.

Thus another Pan-American conference took place. Some of the military leaders of Mexico sent representatives; others refused. The chief result of the discussions of the assembled diplomats was the decision, reached on October 19, to recognize Venustiano Carranza as *de facto* head of the national government of Mexico. And this was done in spite of the fact that this insurgent leader had for two years shown himself to be least amenable to American advice. Wilson had not allowed himself to be provoked by such stubbornness. The movement championed by Carranza appeared to promise most for the submerged 85 per cent. Those associated with him seemed to be loyal both to their chief and his ideals. For more than a year Wilson had been convinced that the triumph of the Carranzistas and their reforms was essential to the permanent pacification of Mexico. He had hoped that Huerta's scepter would pass directly into the hands of this bearded and spectacled gladiator of the north in the summer of 1914,

but he had been disappointed. Now at last his desires had been made to prevail. The governments of Europe soon followed in the path of recognition which the American states under the leadership of Wilson had marked out. Carranza's cause was immensely strengthened. For the second time Wilson had intervened.

Nor was the extension of a somewhat hasty recognition the extent of this intervention. Wilson proceeded forthwith to manipulate the export of arms and munitions in favor of Carranza. These supplies were permitted freely to enter into the areas dominated by this leader, but an embargo was placed upon their shipment into Chihuahua, Sonora, and Lower California, where the Villistas were threatening to gain the ascendancy. And arms and munitions were allowed to proceed even into this northern area provided there was assurance that they would be received by the Carranzistas.

Except for such interposition as was represented by these acts Wilson persisted in his policy of non-intervention. Having thus exalted Carranza's international status by securing for him the recognition of the leading powers of Europe and America and having instructed his subordinates to enforce the arms embargo so as to favor the Carranzistas, Wilson settled down once more to watch and wait. Mexico's "fortunes are in her own hands," he declared in his annual message of December, 1915. "We . . . . now hopefully await the re-

birth of the troubled Republic. . . . . We will aid and befriend Mexico, but we will not coerce her." One is inclined to inquire what portion of the Mexican nation was included under the term "Mexico." Certainly somebody had been coerced and was being coerced by the Wilson policy! At any rate, the United States had not sent an army into Mexico for the purpose of protecting American life and property and restoring order. To have remained completely passive in the face of the tragedy which was now dragging into its sixth year south of the Rio Grande would have been a dangerous provocation of American vested interests and of the American public as well.

Even as early as April, 1914, there were not lacking those who appeared to hope that the seizure of Vera Cruz might eventuate in general intervention in behalf of our stake in Mexico. They seemed to favor one of the lines of action suggested by Henry Lane Wilson. The former Ambassador's proposals were industriously read into the record. Wilson had pointed out three courses: the recognition of Huerta on condition that he satisfy our demands with reference to claims and other differences, dismiss his foreign secretary, and permit our troops to assist him in establishing order north of the twenty-sixth parallel; a more general invasion, preceded by a denial of any desire of permanent occupation and the recall of our nationals, and accompanied by the organ-

ization of a commission, composed of the American Ambassador, the commander-in-chief of the Army, the ranking officer of the Navy, and a member of the Senate Committee on Foreign Relations, which should follow in the wake of the invading force, reconciling Mexican factions, "establishing the rule of law, and dispensing justice in the name of the United States"; and, lastly, the establishment of a permanent buffer state north of the twenty-sixth parallel and incidentally including the most important mining area of Mexico.[17] Such were the suggestions which the aggressive members of the national congress appeared to favor in the spring of 1914, but thanks to the strength of Wilson's party and to the hold of the President on public opinion, they were easily held in check.

As the year 1916 opened, however, signs of more formidable opposition could be seen. Mexico appeared to be approaching the "verge."

The crisis was occasioned mainly by Francisco Villa's raids upon the American frontier and by the political stage play on the eve of the national election in the United States. The Villistas, their natural marauding proclivities stimulated by hostility aroused by Wilson's partiality for Carranza, perpetrated outrages upon American life and property in Northern Mexico and began a series of incursions into the United States. The Republican party

seized upon the Mexican problem as one of the issues of the national campaign.

Senator Albert Fall, for three years a chronic critic of Wilson's Mexican policy, was in the midst of one of his diatribes when news of the massacre of eighteen Americans by Villistas at Santa Ysabel furnished critics and interventionists a better theme. William E. Borah of Idaho declared:

> I would protect the American passport when issued at whatever cost. I would make even the fiends of Mexico know its worth. I do not believe that anything is to be gained in the long run by this policy of waiting for a nation like Mexico to settle its difficulties when those difficulties involve the rights of our own people.

Senator Lippitt of Rhode Island served notice that if he

> had been president of the United States . . . . when the reports of these Mexican murders arrived in Washington, ... another sun would not have set over the Sierra Madre Mountains before American soldiers would be [have been] hot on the trail of those murderers. The first scrap of paper that I would have used would have been a telegram instructing those soldiers to use every possible effort to secure those murderers, dead or alive; and I would have had in it a strong intimation that they need not object to including in those provisions some of their accomplices and sympathizers. . . . . I would have kept up that policy until the life of every American ranchman was as safe as though he had been in Washington.

Representative Humphrey of Washington remarked that he and the "American people" did not "believe in" Wilson's patient forbearance, which meant in reality a policy "of slaughter and savagery." He declared:

> Certainly this has not always been the policy of this Nation. When the shrieks and groans of murdered and tortured men, the sobs and cries of starving women and children in Cuba reached us the American people demanded that these atrocities should end; and when that demand was disregarded our answer was not "watchful waiting," . . . . but the American people rose as one man, drove the yellow flag of Spain from the Western Hemisphere, and placed Cuba among the nations of the earth. And the day is not far off when the people of this country, regardless of the attitude of the administration, will see that peace is brought to unhappy Mexico.

The Democrats at once detected a political motive in this outcry. The Republicans did not mean all they said. They supposed Wilson could not be forced to intervene in Mexico. They meant to show him up as having in a most cowardly fashion abandoned American rights in Mexico. The Democrats warned their opponents, however, that they might be playing a losing game. They might create a war sentiment which Wilson could not assuage and dared not resist, and if a war with Mexico should be in progress in November, 1916, Democracy's

success in the national elections would be assured.

This warning fell for the most part upon heedless men. Senator Lodge, Representative Mondell of Wyoming (Republican floor leader of the House), and Representative Madden of Illinois appear to have observed this danger, but the rest either continued confident that Wilson could not be forced to intervene or, eager for the "Cubaization" of Mexico, were probably willing to risk defeat in order to achieve this end. At any rate, the political stage play continued along with Villa's depredations. Senator Ashurst of Arizona called for more "grapeshot" and less "grape juice"; Fall demanded the occupation of Mexico with an army of five hundred thousand; Slayden of Texas presented evidence of a Mexican conspiracy to reconquer the Southwest and turn it over to Negroes, Japanese, and Mexicans; Senator Gallinger of New Hampshire agreed with former Senator Blair's view that "our southern boundary is Panama" and that we must pacify Mexico in order to make our borders secure.

Senator Fall was the most boisterous of the opposition orators. On June 2 he spread his final preconvention speech over seventeen pages of the *Congressional Record*. He said that Carranza was more despotic than Peter the Great had ever been, and characterized the first chief and his followers as bandits and thieves; he appealed to Catholic prejudices in the United

States by recounting Carranzista outrages against the church, its properties, priests, and nuns; he denounced Wilson for his cowardly abandonment of American interests and his support of an unprincipled tyrant; he dwelt upon the great benefits conferred upon Mexico by American enterprise and capital. His peroration was a hymn of praise in honor of the Austins, Bowies, Crocketts, and Frémonts with their Lone-Star and Bear flags and their defiance of the British Navy on the Pacific Coast. He shouted:

> At that date, thank God, there was not an American who would call these Americans criminals although they brought on a war with one country and defied the "Mistress of the Seas." Those people living at Columbus [referring to Villa's murderous raid upon this little village of New Mexico], those people who have been carrying civilization into Mexico, are of the same blood, the same bone, the same sinew as those who raised aloft the Lone-Star flag on the one coast and the Bear flag on the other, and added an empire to this country.

During the spring and summer the war spirit began to develop. In the latter part of January a careful survey of the press in the United States showed a majority opinion opposed to intervention, but by the last of May sentiment had changed and "some of the most sober and responsible papers" had lost patience. If Wilson did not feel the martial spirit he at least sensed the situation after Villa's attack upon

Columbus. He dispatched a punitive expedition in pursuit of the bandit but continued to declare against intervention and succeeded in writing a non-intervention plank into the Democratic platform. This action was of little avail in holding the aggressive elements in check. The pursuit of Villa rendered him more popular among certain classes of Mexicans, and Carranza, though at first apparently not opposed to the expedition, gradually assumed a more hostile attitude toward it. The climax was reached during the third week of June—just as the Democrats were publishing their platform—when the Carranzistas at Carrizal killed, wounded, and captured a number of Pershing's soldiers.

The whole country burst into a flame, and even Wilson himself either lost patience or feared to remain inactive. Release of the captured troops was demanded in none too diplomatic terms. For a moment Carranza refused to comply. The peace of the two countries was suspended by a thread. The entire militia of the United States was ordered to the border, and available men for the governor-generalship of Mexico were discussed. But just before the breaking point was reached the labor leaders of the two countries came together and, on June 28, Samuel Gompers sent a personal telegram to Carranza, imploring him in the name of humanity to release the American prisoners. A few hours later extras announced to the Amer-

ican public that the soldiers in question had been set free.

The break was thus avoided but the situation continued to be tense. A Villista outrage or a hostile move by the pig-headed Carranza might at any moment lead to the outbreak of hostilities. Fortunately for the peace of the two countries, however, numerous moderate and pacific groups, with the industrious assistance of Mexican agents, undertook to hold the war spirit in check. Protestant churches, some of the Jewish organizations under the leadership of Rabbi Wise, several journalists and educators, all of the labor organizations, and many of the plain people urged moderation and peace. President Wilson, perhaps in the hope that this step might keep "the Mexican situation from blowing up" during a "critical part of the campaign," appointed a commission of three to meet with an equal number of appointees of the Carranza government. He then assumed an attitude of defiant confidence during the national campaign, but he kept General Pershing in Mexico.

With the victory of Wilson at the polls in November, 1916, and the entrance of the United States into the World War early the following year, this particular crisis definitely passed. The Mexican issue receded to the background and remained there for almost two years.

Meanwhile the Carranza goverment lent a willing ear to German intrigue, sought to un-

dermine Wilson's influence in Latin America, demonstrated its inability to cope with conditions in Mexico, and issued decrees which brought down upon it the implacable enmity of American vested interests. These interests demanded the protection of the State Department—and they were given whatever protection protests, remonstrances, and threats could yield—carefully collected evidence, organized, and grimly bided their time. A successful war could be depended upon to strengthen the material and psychological foundations of materialism; the pride of victory would diminish forbearance in the presence of real or alleged outrages suffered at the hands of Mexico. At the close of the World War the Mexican government would either have to make amends for these injuries and repeal legislation and decrees which citizens of the United States considered unfavorable to their interests or drastic measures would be pursued.

As soon as the titanic European struggle ended the apostles of an energetic Mexican policy began once more to appeal to the American public. During the last weeks of 1918 the *Christian Science Monitor* came out with an editorial entitled "Mexico Next," and a syndicated cartoon represented Uncle Sam in uniform with rifle by his side sitting on a box of ammunition and soliloquizing, "What was the name of that fellow down there in Mexico who congratulated the Kaiser on his birthday?"

During the course of the spring and summer of 1919 the majority of the powerful journals, some of the southern papers included, gave expression to a demand for a radical change in the administration's Mexican policy. A "new régime more complacent to American capital," the punishment of Carranza for his hostile attitude during the World War, and the performance of the "same service for Mexico" which had been "performed for Cuba" appeared to be the prevailing sentiment. Henry Lane Wilson returned to his old idea of a buffer state, only now he desired that it should extend to the twenty-second instead of to the twenty-sixth parallel.[18] And while the press was urging these views numerous members of the national congress were making a large contribution to the task of arousing popular resentment and passion against Mexico. Senator Cummins of Iowa expressed the conviction that "we ought to try hard to buy Lower California," and "if we cannot buy it we ought to take it." Senator Watson of Indiana declared that a war with Mexico "would be entirely agreeable to me." Representative Norman J. Gould of New York presented a list of outrages perpetrated against American oil men and their agents in the Tampico zone. He declared that the government of Mexico was "half-bandit" and "half-Bolshevik." He quoted the late Roosevelt as favoring intervention in Mexico in his last message to the American people, and read into the record a

recent report of one of Wilson's Cabinet officers which maintained that Mexican petroleum was absolutely necessary for our prosperity and our national security. Gould was followed from time to time by other advocates of drastic action with similar appeals. Finally, in September, 1919, a subcommittee of the United States Senate began to issue its findings in free instalments to the American people. Its "Preliminary Report and Hearings" filled two huge volumes of more than thirty-five hundred pages![19]

The chairman of this committee was none other than Senator Albert Fall, and its bulky report was the last word in imperialist propaganda. An appeal for a more drastic Mexican policy was made on the following grounds: The Carranza régime was represented as inefficient, corrupt, barbarously lascivious, anti-American, pro-German, and pro-Japanese, violently anti-religious, dangerously radical. Carranza was alleged to be responsible for hundreds of grievous injuries and outrages to American citizens and represented as a threat to our prosperity and national security because of his confiscatory policy with reference to the oil properties of American nationals in Mexico. Conditions in Mexico were declared to constitute a standing menace to the Canal Zone and the Monroe Doctrine. This report furnished a splendid supplement to journalistic propaganda and con-

gressional eloquence. It left little to be said or done in arousing the American public.

Moreover, the last weeks of 1919 witnessed a decided change in the attitude of Wilson's official family toward Mexico.

> Franklin K. Lane, formerly one of the most able defenders of the President's Mexican policy, lost faith and began to succumb to the wiles of the irresistible Doheny. Attorney-General Palmer seems to have permitted his department to break down along the Rio Grande. Ambassador Fletcher returned from Mexcio pleading for vigorous measures. Lansing, growing more and more out of harmony with the President, appeared now to be half-inclined to listen to Fall and his group. Woodrow Wilson was lying in the White House a very ill man.[20]

And then, just at this critical time, somebody in Northern Mexico seized the consular agent of the United States at Puebla (William O. Jenkins). To Lansing's demand for immediate release the Mexican government responded with a request for delay pending a judicial investigation. At last the stage seemed to be set for intervention. Fall's friends called him to Washington for an interview with Lansing. The Secretary of State and the leader of the interventionists appeared to be in agreement. Another demand was made for the immediate release of Jenkins, and Fletcher was delegated to represent Lansing in "close and continuous contact" with the Fall committee. A resolution was drafted approving the "action of the De-

partment of State in reference to the pending controversy" and demanding the severing of all relations with the Carranza government. It was immediately submitted to the Senate and referred to the Committee on Foreign Relations, but before further action could be taken first Fletcher and then Lansing hurried to the Senate chamber and urged delay upon the second portion of the document. "Apparently Wilson, who had not been consulted in regard to Mexican affairs since he returned a broken man from his western tour, had received a hint of what was going on and called a halt." Soon afterward Jenkins was released—under suspicion of having connived at his own capture—and once more the war cloud floated past.

The aggressives, though beaten a second time, were by no means discouraged. The national elections were approaching. They would pledge the Republican party vigorously to defend American investments and energetically to prosecute American claims, and they would defeat the Democrats in November. Perhaps they might frighten the Democrats into writing a vigorous Mexican plank into their platform!

But just as Mexico approached the "verge" for the third time, and while labor leaders, churchmen, liberal journalists and educators, plain people, and Mexican agents in the United States were pleading for respect for Mexican sovereignty, Alvaro Obregón overthrew the cor-

rupt Carranza régime. The new head of the Mexican nation hastened to avow a friendly policy toward the United States and soon revealed leadership of a high quality. "The American press responded with widespread favorable comment" and "agitation for immediate armed intervention soon ceased." Not even Senator Fall, in the last instalment of his report, saw fit to urge armed coercion until diplomatic and economic pressure had been tried and proved ineffective. The military and naval forces of the United States were to be employed, according to his plan, only as a last resort and for the

> restoration of peace and order; protection of our own citizens; protection of Mexican citizens; restoration of American citizens to their properties; the affording of opportunity for the opening of mines, fields, and factories; and last, to afford the opportunity for the Mexican people themselves . . . . to constitute a Mexican government of serious, competent, honest, and honorable men who will meet the civilized world upon a friendly ground and bind themselves to deal with other people as they themselves would be dealt with.

Thus the sword of intervention, according to the project of this most aggressive of aggressives, was to be displayed in the dim distance as an auxiliary of a milder form of coercion, but the milder form was all that was to be employed immediately.

The party platforms drawn up in the sum-

mer of 1920 indicated that both of the great political organizations were committed to diplomatic coercion. Both expressed unwillingness to recognize Obregón (or rather his tool, Adolfo de la Huerta, who was acting as president ad interim) previous to an understanding with reference to American claims and vested interests. What action was contemplated if this procedure proved unavailing does not appear, nor is it clear whether a formal treaty or an informal pledge was to be required. It may be inferred from Fall's recommendations and the subsequent course of each party, however, that both national groups were committed to the treaty idea.

Although Wilson's secretary of state, Bainbridge Colby, had publicly stated on the eve of the national elections that he did not deem it necessary to "prescribe rigid and definite terms upon which a recognition of the Mexican government would be expressly conditioned," he nevertheless suggested a few days later that "commissioners be promptly designated . . . . to formulate a treaty" which would embody informal pledges previously made by the agent of De la Huerta. How much Wilson had to do with this policy of pressure in behalf of vested interests it is difficult to say. Certainly he had not demanded in 1915 that Carranza "sign on the dotted line" as a condition of recognition. Nor were such demands in line with the Wilson idea of leaving American masters of finance and

captains of industry to shift for themselves in foreign fields. Possibly the President was no longer directing the State Department. It must be noted, however, that not even in the days of his high idealism did he entirely abandon American nationals who had acquired interests in Mexico. He had questioned Carranza sharply on this matter and had received favorable commitments, and the files of the State Department are filled with remonstrances against the decrees, exactions, and other damaging proceedings of the Mexican chiefs against American life and property in Mexico. Perhaps Acting Secretary Polk aptly stated Wilson's policy when he wrote in 1918:

> The President has drawn a sharp contrast between the policy of armed intervention and that of diplomatic interposition. He has, on numerous occasions, stated in effect that he would not countenance armed intervention in the affairs of another State for the purpose of gratifying selfish interest. . . . . But the President had never stated that he would forego the right of diplomatic interposition in behalf of American citizens, a distinctly friendly method of supporting legitimate national interests in order to avoid injustice.

Final judgment can no more be passed upon the Mexican policy of Wilson than upon that of Taft. The latter might have prolonged the system of Díaz by a more rigid enforcement of neutrality, but he probably could not have perpetuated that system. The evil day could only

have been put off at the risk of intensifying the final catastrophe. Neither can the effect of Taft's moral support of Madero at the beginning of his career nor of Henry Lane Wilson's opposition at the end accurately be determined. Perhaps their attitude had very little weight. At any rate, it does not appear that Madero possessed those qualities of leadership which would have enabled him to ride the tide of opposition and to direct the mass movement toward a liberal and stable régime. Immediate recognition of Huerta in February, 1913, might have hastened the achievement of order and the establishment of a government more friendly to American vested interests, but such a course would have meant, once more, merely the postponement of the democratic and nationalist upheaval with its accompanying proletarian extravagances. Nor is it at all certain that Woodrow Wilson the Crusader would not have undone Taft's work. So likewise in the case of President Wilson. His opposition probably hastened the overthrow of Huerta, but the overthrow was probably destined to be accomplished sooner or later anyway. The submerged masses could not long have been held in check. In opposing Huerta, Wilson was attempting to hasten the process of democratization and nationalization, and in backing Carranza he was working toward the same end. Whether he succeeded in his efforts it is difficult to say. Possibly he chose the wrong man. When he picked

Carranza, both Obergón and Calles were in sight, but there is no absolute assurance that they would permanently have succeeded where Carranza failed. If they had been supported at that time their bones might now be lying where the remains of Carranza were placed to rest and Carranza might now be the champion of "Mexico for the Mexicans" and land for the masses. The only difference between the milder intervention of Wilson and the armed intervention of the aggressives is largely one of purpose and cost. Wilson looked toward a régime which respected two important aspirations of the age —nationalism and democracy—and his policy was comparatively inexpensive. The apostles of armed intervention would have acted in the interest of an imperialism which had little respect for either aspiration, and the bill of blood and money would have been presented to the American public at large. There would probably have been little difference in the length of time required for the final consummation. Those who are more tolerant and passive may criticize both Wilson and the aggressives upon essentially the same ground. Both parties were too impatient to permit Mexico to work out her own destiny by dint of her own efforts and without interference of any kind. But to point out this fact is but to emphasize another characteristic of the white civilizations of the Western world. In the case of nations as of individuals the slow must have their speed accelerated

and the eccentric must be made to conform to the prevailing type—and above all it must be remembered that the white nations of the West are God's anointed and the world was made for them!

At any rate, Wilson left Mexico's future largely in her own hands. Nationalistic and democratic aspirations had not been seriously interfered with, even if the process of realization had not been speeded up. So far as improvement in Mexican attitude toward the United States was concerned, little had been accomplished. Neither the Mexican people nor their leaders saw in Wilson a bulwark standing against powerful aggressive forces which threatened to submerge Mexican leaders and Mexican nationality alike. But crosses are made for reformers who would help nations and peoples to save themselves. And the last days of Wilson's administration had been marked by an attempt at diplomatic coercion.

HUGHES AND KELLOGG AT THE HELM[21]

When the Republican administration took up the Mexican problem in March, 1921, it was concerned not so much with indemnity for the past as with security for the future. Somewhere between two hundred and five hundred American lives had been lost as a direct result of the revolutionary disturbances which broke out in 1910. Hundreds more had been thrown into prison or wounded, and from forty to fifty-

five thousand had left the country, permanently or temporarily, having abandoned their pursuits and property either of their own accord or pursuant to the advice of the American State Department. But the Mexican government had already indicated a willingness to negotiate conventions relating to these matters, and soon after Hughes entered upon his duties Obregón's agent submitted drafts of treaties designed to settle all claims since 1868.[22]

To the new Secretary of State there was something more important than immediate indemnity for all these losses and injuries. The program of reform in Mexico constituted a threat to American vested interests, and the Mexican government must sign a pact furnishing adequate safeguards. The draft of a Treaty of Amity and Commerce was accordingly submitted to the Obregón administration on May 27. Sixteen articles of this draft were taken up with the usual formalities of such agreements. The other two—Articles 1 and 2—contained the crux of the difficulties. They embraced five important provisions: (1) assurances that nationals of either country residing in the other would enjoy all the rights and privileges of native citizens; (2) reciprocal guaranties against confiscation and expropriation, except for public purposes and after "prompt payment of just compensation"; (3) assurances against the retroactive application to American citizens of Carranza's agrarian decree of January 6, 1915—

providing for the grant or restitution of communal lands to the Indian villages—of the provisions of the constitution of 1917, or of any other decrees or orders of any sort; (4) restoration to American citizens, whenever possible, of the property rights of which they may have been deprived since 1910 and adequate compensation for all losses suffered on account of such deprivation; (5) the reciprocal guaranty to the nationals of either country residing in the other of freedom of worship and the right to own church property. The last of these provisions was not pressed upon the Mexican government, but the first four became the subject of an extended argument.

Although the Mexican government did not immediately make a formal reply to the proposals, Obregón at once let it be known to the press that he was very much opposed to signing such an agreement as a condition of recognition. Secretary Hughes then issued a public statement defining his policy with reference to the matter.

> If General Obregón is ready to negotiate a proper treaty, it is drawn so as to be negotiated with him and the making of the treaty in proper form will accomplish the recognition of the government that makes it. In short, when it appears that there is a government in Mexico willing to bind itself to the discharge of primary international obligations, concurrently with that act its recognition will take place.

Diplomatic promises were not sufficient.

> The question . . . . is not one of a particular administration but of the agreement of the nation in proper form which has become necessary as an international matter because of the provisions of its domestic legislation. If Mexico does not contemplate a confiscatory policy, the government of the United States can conceive of no possible objection to the treaty.

The viewpoint of Hughes was strictly that of the legalist and the jurist.

To this statement of Hughes, Obregón rejoined in his annual message of September. The executive said:

> This draft of a treaty contained stipulations contrary to some of the precepts of our constitution; hence its adoption would inevitably lead to a situation of privilege in favor of the American residents in Mexico, which would automatically become applicable to the citizens of other countries, owing to the well known most-favored-nation clause.

Thus foreigners would obtain a favored position and Mexicans would become aliens in their own native land. Moreover, even if this were not so, the signing of a treaty as a prerequisite of recognition "would have imparted to recognition a conditional character, and would have seriously impaired the sovereignty of Mexico." Accordingly, while expressing a determination to protect American interests in Mexico, he expressed a desire to avoid humiliating promises.

The formal reply (November 19, 1921) of Minister Albert J. Pani to the proposed draft

of a Treaty of Amity and Commerce indicated the extent to which Mexico would go in order to obtain recognition. The Obregón government would sign a special claims convention for the adjudication of claims of American citizens arising between November 10, 1910, and May 31, 1920. It then would expect recognition, and after this had been extended it would sign a general convention for the settlement of claims arising since the adjudications which had taken place in accordance with the agreement signed on July 4, 1868. But it would not make further concession. It was determined not to enter into obligations which would interrupt its politico-religious and agrarian reforms and defeat its program of nationalization. It would not agree to limit its control over its national resources and its domestic policies.

During the next eighteen months neither government formally receded from its position, and the diplomatic controversy continued. Meantime Obregón set to work in such manner as to redeem the informal diplomatic pledges which he had made from time to time, and the supreme Court of Mexico handed down decisions which brought some comfort to the oil interests of the United States. On June 16, 1922, an agreement was signed with the International Committee of Bankers which recognized the validity of important financial obligations, stipulated the terms under which they were to be fulfilled, and promised the re-

turn of the Mexican railways to private ownership. The decisions of the Supreme Court established the precedent that "petroleum properties in process of development before May 1, 1917, when the present constitution took effect, are protected from a retroactive application of the fourth paragraph of Article 27." Moreover, Obregón's government delayed action with reference to the program of nationalizing the lands and subsoil resources of Mexico.

In his note of March 31, 1923, Pani did not fail to point out some of these facts. He referred to the Bankers Agreement and to negotiations in progress between the Mexican government and the oil men of the United States. He cited the court decisions and gave statistics indicating that the oil industry in Mexico was in a flourishing state despite the alleged apprehensions of the petroleum producers. The oil production for the year 1920 was 157,000,000 barrels and that for 1922 more than 182,000,000. Citizens of the United States still owned 57.7 per cent of the oil business in Mexico, the British 33.8 per cent, and the Mexicans only 1.1 per cent! In the process of granting communal lands to the Indian villages, Pani admitted that citizens of the United States may have suffered losses, but he justified the Mexican government on the ground of expediency. The impulsive demands of the long-abused people necessitated speedy action, and the state of the Mexican treasury did not permit of cash indemnity.

Moreover, the explosive enthusiasm of certain agrarians and the machinations of political agitators often made it impossible to confine official action within the limits of strict legality, but it should be "remembered . . . . that faulty administrative organization is an evil from which some of the most civilized countries of the world still suffer." The Obregón government had chosen the lesser of two evils. It had extinguished the fires of a destructive agrarian revolt at the cost of only slight injury to the landowners, and only twenty-six Americans had suffered!

> Considering all this, ... it may be affirmed that the damages to the American agricultural properties . . . . will never justify the systematic resistance worthy of a better cause, which the United States has been opposing to the currents of sympathy . . . . created and developed under the protection of the good will of the Government of Mexico. . . . .

This exposition of the improving situation and of the difficulties under which the Obregón administration was working may have had some weight with Secretary Hughes. It was made at the very time that he was being hammered by merchants, bankers, boards of trade and commerce, citizens and officials of the Southwest, and humanitarians and plain people everywhere until the bruises were becoming painful. What did the bankers care about vested interests? They had their Lamont–De

la Huerta agreement. What reason for regret had the mid-continent oil men if the Mexican government squeezed a few more dollars from their competitors or interfered with the development of their petroleum reserves? The chambers of commerce in the Southwest and elsewhere were primarily interested in Mexican trade, and they felt that recognition would promote their interests. Humanitarians and plain people thought more of equity and the future of the oppressed masses of Mexico than of the international rules of capitalistic nations and vested interests of United States captains of industry. It was the old story repeating itself. Mexico was finding protection in the rivalries and diverse views of the several groups which constituted the American nation. Obregón and Pani saw the situation and rejoiced. In his note of March 31 Pani had referred to the resolutions demanding immediate renewal of diplomatic relations which had been presented to the State Department "by the majority of the legislatures of the States of the American Union and many official and private institutions." In fact, the Mexican leaders deliberately cultivated American public opinion—a procedure not at all unusual on their part.

Evidently, then, the time had come when diplomatic briefs no longer sufficed, and Hughes prepared to adjust his sails to the prevailing wind. In May, 1923, Charles Beecher Warren and John Barton Payne were sent as commis-

sioners to Mexico for the purpose of negotiating concerning recognition. Apparently the resolution to force Mexico to sign a treaty prior to and as a condition of recognition was about to be abandoned. The main purpose now appeared to be to obtain a definite and formal statement of the position and intentions of the administration of Obregón.

Mexico seems to have made very few concessions during the conferences which followed. Special and general claims conventions were signed, but these could have been had two years before. The Mexican commissioners, Ramón Ross and Fernando González Roa, declared with reference to petroleum that the constitution of 1917

> is not retroactive in respect to all persons who have performed, prior to the promulgation of said Constitution, some positive act which would manifest the intention of the owner of the surface or of the persons entitled to exercise his rights to the oil under the surface to make use of or obtain the oil under the surface: such as drilling, leasing, entering into any contract with reference to the subsoil, making investments of capital in lands for the purpose of obtaining the oil in the subsoil, carrying out works of exploitation and exploration of the subsoil and in cases where, in the contract relative to the subsoil, it appears that the grantors fixed and received a price higher than would have been paid for the surface of the land because it was purchased for the purpose of looking for oil and exploiting same if found; and, in general, performing or doing any other positive

act, or manifesting an intention of a character similar to those heretofore described.

But this was merely an elaboration of the position of the Mexican Supreme Court, a repetition of the doctrine that a positive act was necessary in order to transform the privilege of extracting petroleum into an acquired right. In this connection, however, the Mexican commissioners did hold out an encouraging promise. They stated that persons who had not performed such positive acts prior to the date when the constitution of 1917 became effective would be conceded preferential rights to the fuel products beneath the surface which they owned and, upon application to the Mexican national government, would be granted permission to avail themselves of these rights. Warren and Payne dissented from this positive-act doctrine and reserved to their government the privilege of future protest. The American commissioners, on their part, agreed that Mexico might compensate citizens of the United States in twenty-year, 5 per cent bonds for such lands as had or should be taken from them, not in excess of a square league (4,335 acres) for each village, in restoring communal lands to the Mexican Indians. But the commissioners refused to admit that 10 per cent added to the value of these lands for purposes of taxation would constitute just compensation, and they made it clear that the acceptance of bonds for the *ejidos* was not to be considered a precedent in respect of lands

of citizens of the United States expropriated under other circumstances.

Warren and Payne returned to Washington near the end of August and reported the results of their conferences. On September 3 diplomatic relations were formally resumed. Matters then quieted down somewhat. Another agreement was negotiated by Obregón with the International Committee of Bankers; and the Agrarian Commission of Mexico continued to restore community lands to the villages, but the execution of most of the other provisions of the constitution was postponed. The United States government showed its approval of Obregón by discriminating against De la Huerta in his attempt to seize the reins of power. The Obregón candidate, Plutarco Elias Calles, was successful in the national election of the summer of 1924, and in the following December he quietly took charge of the Mexican government.

On the surface, the relations between the two nations continued to be harmonious until June, 1925. And then, just as the American public was beginning to think that the Mexican "ship of state had reached an even keel," Secretary of State Kellogg, who had entered the Coolidge Cabinet after the resignation of Hughes, published a startling statement in the press. Kellogg said in part:

. I have discussed Mexican affairs with Ambassador Sheffield at great length. He has gone over

the entire situation. It will be remembered that we entered into two claims conventions with Mexico under which joint claims commissions were appointed to adjust claims of American citizens for properties illegally taken by Mexico and for injuries to American citizens of their rights. These commissions are now sitting and will, in due time, adjudicate these claims. Conditions have improved and our Ambassador has succeeded in protecting American, as well as foreign, interests. Our relations with the Government are friendly, but nevertheless conditions are not entirely satisfactory and we are looking to and expect the Mexican Government to restore properties illegally taken and to indemnify American citizens.

A great deal of property of Americans has been taken under or in violation of the agrarian laws for which no compensation has been made and other properties practically ruined and, in one instance, taken by the Mexican Government on account of unreasonable demands of labor. Mr. Sheffield will have the full support of this Government and will insist that adequate protection under the recognized rules of international law be afforded American citizens. . . . .

I have seen the statement published in the press that another revolutionary movement may be impending in Mexico. I very much hope this is not true. This Government's attitude toward Mexico and toward threatened revolutionary movements was clearly set forth in 1923, when there was such a movement threatening the constituted Government of that country.

The attitude taken by this Government at that time has since been maintained and it is now the

policy of this Government to use its influence and its support in behalf of stability and orderly constitutional procedure, but it should be made clear that this Government will continue to support the Government in Mexico only so long as it protects American lives and American rights and complies with its international engagements and obligations.

The Government of Mexico is now on trial before the world. We have the greatest interest in the stability, prosperity, and independence of Mexico. We have been patient and realize, of course, that it takes time to bring about a stable Government, but we cannot countenance violation of her obligations and failure to protect American citizens.

This public warning called forth from President Calles a spirited reply. He cited the claims conventions as proof of Mexico's willingness to "comply with her international obligations and to protect the life and interests of foreigners." He declared that the agrarian laws could not be a subject of complaint because in the first place "Mexico has [had] issued them in the exercise of her sovereignty" and in the second place the State Department of the United States had accepted the form of indemnity prescribed by these laws. He declared that Secretary Kellogg, in referring to reports of prospective revolts against the Mexican government, was destroying confidence in that government and inciting the very disorders which he pretended to deplore. He said that Kellogg's statement that the United States would continue to support the Calles adminis-

tration only so long as it continued to protect American life and interests embodied a "threat to the sovereignty of Mexico" which could not be overlooked or allowed to remain unresented.

In taking this action, President Calles appears to have voiced the sentiments of the majority of the Mexican people. Mexican senators and deputies sent congratulations and pledges of support. Leaders in the Mexican Army indorsed his statements and offered their swords in his defense. The press came valiantly to his aid. *El Democrata* dismissed Kellogg's charges as fanciful and false. *El Universal* quoted the statement of Calles with approval and remarked that the Mexicans had a clear sense of their rights and their honor as a sovereign people. It resented in particular Kellogg's suggestion of a revolution and the withdrawal of American support from Calles, denominating such procedure as an attempt to settle a diplomatic question by a threat to "unleash a catastrophe." *Excelcior* announced in its headlines that Kellogg's statements constituted a threat against the sovereignty of Mexico, while on its editorial page it carried such headlines as "The False Friend" and "Will History Forever Repeat Itself?" The contention of the editor of this journal was that the announcement of the American Secretary of State would be taken by the Caribbean countries as an admission of the pursuit of policy of fomenting revolution, thus confirming the suspicions that they

had long entertained. So far as Mexico was concerned, he was half-inclined to believe that this was really the established procedure of Washington. Evidently the public warning of Kellogg had not placed Calles in a position to make concessions!

After this outburst the diplomatic atmosphere became calm once more until the closing days of 1925, when it appeared certain that the Mexican Congress would pass laws relating to the nationalizing of petroleum and lands owned by aliens. This occasioned another duel of pens which lasted intermittently for five months. The issue of the contest was doubtful, both parties gaining certain advantages.

The petroleum law (December 26, 1925) declared, among other things, that petroleum was the property of the nation and that aliens could obtain permission to exploit this commodity only on condition of agreeing to become Mexicans in all that relates to such a concession. It also confirmed without charge, but only for a period of fifty years, (1) all rights arising from lands on which works for the extraction of petroleum were begun prior to May 1, 1917, and (2) all rights arising from contracts made before May 1, 1917, by the owner of the surface or his successor in title for express purposes of exploitation of petroleum.

The following are the main provisions of the alien-land law (December 31, 1925): (1) Aliens are forbidden to acquire direct owner-

ship of land or water in a strip of one hundred kilometers along the frontiers and of fifty kilometers along the seacoasts. (2) Aliens are not allowed to constitute a part of a Mexican company which may have or acquire ownership of lands and waters, or of concessions for the exploitation of mines, waters, or combustible minerals elsewhere in the republic, except on condition of obtaining a permit which will be granted to them only after they have agreed, on penalty of forfeiture, not to invoke the protection of their home government in regard to the property in question. (3) In the case of Mexican companies owning rural property for agricultural purposes, participation of aliens is not to be allowed after their acquisitions reach 50 per cent of the total interests of the company. So much for the provisions which relate to the future. The law then goes on to lay down certain stipulations in respect to alien property acquired before the law becomes effective: (1) Foreign individuals, partnerships, and corporations may retain their holdings in the maritime and frontier strip until death or dissolution, and their heirs and assignees are given five years to dispose of the property even after this. (2) The same conditions hold elsewhere in the republic in respect to the ownership of lands, waters, and mining and other concessions, with the exception of aliens who possess 50 per cent or more of the total interests of Mexican companies holding rural lands for agricultural pur-

poses. In such cases individuals are to have the same privilege, but corporations are to be granted a period of only ten years in which to dispose of their interests in excess of the stipulated maximum.

The proposed partial denationalization of aliens, the previously acquired subsoil interests, and the provisions of the land law which relate to alien property acquired before the law became operative furnished the occasion for Kellogg's protests and the replies of Moises Sáenz, Mexican minister of foreign affairs. With reference to the issue of requiring foreigners to waive their nationality and agree, on penalty of forfeiture, not to invite diplomatic protection in respect to their land and oil properties in Mexico, Kellogg refused to admit that said waiver could annul the relations of a citizen to his government or cancel his government's obligation to accord diplomatic protection in case of a denial of justice. Sáenz admitted that an individual could not "compel the state of which he is a citizen to refrain from asserting a right that belongs to it," but he contended that the waiver agreement was an obligation "assumed individually between the Mexican contracting party and the Mexican Government," and, as such, in no way infringed "upon any of the rights of a foreign state." The other two issues involved a definition of the terms "retroactive" and "confiscatory." Kellogg appears soon to have decided that further protest against the

positive-act view with reference to petroleum rights would be futile, but he continued to maintain that "the exchange of a present title for a concession having a limited duration"—namely, fifty years—did not "confirm the title." He also pointed out that the owners of oil lands and oil concessions who had not taken positive steps to develop the commodity prior to May 1, 1917, had not, under the provisions of the recent petroleum law, been granted the preferential right of exploiting the oil underneath these lands. And lastly, with reference to the alien-land law, Kellogg argued that the time limit which it set for the disposition of lands held by aliens would occasion serious losses to American citizens, for they would inevitably be forced to sell them in a very unfavorable market. To which the Mexican Foreign Minister replied that the difficulty could be obviated by the acceptance of Mexican citizenship and that the result of the operation of these provisions could not be determined until the time came for the sale of the lands in question. Moreover, he assured the United States government that the regulations putting both of the laws into effect would be moderate and reasonable.

And this assurance appears to have proved genuine. The regulations seemed to be somewhat more lenient than the laws. In certain cases an extension of time was granted for the disposal of alien holdings affected by the land

law, and it was expressly declared that none of the stipulations of the law or the regulations would be "applied retroactively to the injury of any person." The petroleum regulations confirmed for fifty years, with a promise of indefinite extension of this period, instead of merely for fifty years, all oil rights acquired prior to May 1, 1917 (Art. 155). They also provided that the beneficiaries of any contract for the exploitation of petroleum entered into between May 1, 1917, and December 31, 1925, should have the preferential right for a year to obtain concessions from the Mexican government in accord with the stipulations of the law and the regulations (Art. 157). This stipulation would presumably furnish a partial remedy for those who had failed to take positive steps looking toward the development of petroleum from their lands prior to May 1, 1917. Preferential treatment for such persons was, however, not expressly stipulated.

It was not a notable victory for those who had for six years indulged in criticism of Wilson's "watchful waiting," but diplomatic coercion had accomplished something. The future had not been made absolutely secure, the vested interests were not yet satisfied; but a few radical tendencies had been checked and a few safeguards set up.

And just as economic controversies approached a calmer stage, religious matters threatened to disturb the composure of the

two nations. Calles was bent upon the complete achievement of the revolutionary program. To restore the communal holdings of the native races and put into operation laws designed to nationalize lands and subsoil resources was not sufficient. The power of the church must be curbed, the performance of religious functions confined to native ministers, education secularized. It was in February, 1926, that serious steps looking toward these ends were first taken. Even if several American ministers and priests had not been affected by these "reforms," the drive against the Catholic church in Mexico would have aroused hostility in certain circles of the United States. Kellogg and Coolidge were called upon to protest and even to withdraw recognition from Calles.

But neither the dissatisfaction of captains of industry nor the prodding of churchmen could ruffle the calm which had begun to settle upon the Coolidge administration since the beginning of April, 1926. After all of their boisterous protests and fulminations the Republican aggressives found their leader committed to vigilant patience. At any rate, they would not call it "watchful waiting"—what it really was —and the reticence of their chief was not so oppressive to some men as the oratory of Wilson. Besides, there might be some advantage in keeping the bad men of Mexico in uncertainty as to whether the American cohorts

would come marching across the border and when.

At the opening of the year 1927, however, the clouds which had long overcast the horizon of United States–Mexican relations once more began to thicken. During the closing days of 1926 American marines had been landed in the state of Nicaragua. One of the reasons given out by the Coolidge administration for the debarkation was that it had been made necessary by the action of the Mexican government, which was supporting a revolutionary group hostile to the interests of the United States in Nicaragua. It was said that Calles was backing Russian bolshevism in its attempt to drive a red wedge between the United States and the Canal Zone.

But critics of the administration arrived at other motives by inference. They suspected that Coolidge and Kellogg were attempting to bluff Mexico into compliance with their demands or seeking a pretext for a break with Calles and the occupation of the oil zones. Again the anti-interventionists collected their forces. Almost all the leading southern newspapers and many of those of the West protested vigorously. Such great national journals as the *New York Times* and the *New York World* published editorial criticism and printed world-opinion opposed to our policy. President William Green, of the American Federation of Labor, raised his voice against the charge that

Mexican labor was bolshevist. Churches and peace organizations mobilized their memberships speedily and effectively. Many Democrats, particularly in the South, denounced the administration, for partisan and other reasons. Borah, La Follette, and Wheeler took a masterful stand in the Senate, and that body unanimously demanded the arbitration of Mexican issues. Kellogg and Coolidge, Brisbane and Hearst, producers of oil, bananas, and mahogany, and the Knights of Columbus were held in check.[23]

Having tried diplomatic coercion without signal achievements and witnessed a demonstration of American public sentiment in connection with the Nicaraguan issue, President Coolidge decided upon a new system of procedure.[24] In October, 1927, J. R. Sheffield, whose efforts had long been ineffective in Mexico City, returned to the United States, and Dwight W. Morrow, a noted financier with high ideals and an ingratiating personality, was sent down to take his place. Soon afterward Coolidge announced his new policy in the following words: "A firm adherence to our rights and a scrupulous respect for the sovereignty of Mexico, ... coupled with patience and forbearance, it is hoped, will resolve all our differences without interfering with the friendly relationship between the two Governments." The whole atmosphere changed immediately. Morrow was received with unprecedented demonstrations of

welcome and began at once to apply his new diplomacy. Will Rogers, our popular humorist, and Charles A. Lindbergh, our aviation idol, were drafted for the occasion. For the first time in years Mexicans began to feel that they had in the United States what Wilson had called a "co-operating friend." In view of the new sentiment which developed, the Mexican Supreme Court could hand down a decision more favorable to American oil interests and the Mexican Congress, and the president could modify the petroleum law in conformity with this new decision. After seven years of wrangling, the government at Mexico City passed a law which embodied the abandonment of its attempt to force the oil companies to exchange perpetual titles acquired before May 1, 1917, for confirmatory concessions with a limited duration. At the same time other minor issues were arranged, and at the end of March, 1928, the relations of the two countries were more harmonious than they had been for over a decade.

APPENDIX AND BIBLIOGRAPHICAL NOTE

APPENDIX

United States–Mexican Trade

Investments of Citizens of the United States in Mexico

Year	Commerce		
	Imports into the U.S.	Exports from the U.S.	Total
1910...	$ 58,795,943	$ 58,193,704	$116,989,647
1914...	92,690,566	38,748,793	131,439,359
1916...	97,676,544	47,945,519	145,622,063
1918...	140,659,542	107,077,030	247,736,572
1920...	168,330,626	143,785,526	312,116,152
1922...	122,956,524	137,750,077	260,706,601

	Amount of Investments*	
	Total	Authority
1902...	$ 500,000,000	United States Consul Andrew D. Barlow
1907...	750,000,000	United States Bureau of Manufacturers
1911...	1,057,770,000	United States Consul Marion Letcher
1921...	651,798,000	"A financier of long residence in Mexico who is thoroughly familiar with Mexican conditions." The figures represent an attempt to determine capital actually invested.
1924...	1,000,000,000	Finance Division of the Bureau of Foreign and Domestic Commerce
1925...	1,280,000,000	United States Department of Commerce

	Character of Investments		
	Enterprise	Amount	Authority
1911...	Railroads	$ 644,390,000	Consul Letcher
	Mines	223,000,000	
	Smelters	26,500,000	
	National bonds	52,000,000	
	Timberlands	8,100,000	
	Ranches and farms	4,110,000	
	Live stock	9,000,000	
	Factories	9,600,000	
	Oil	15,000,000	
	Rubber	15,000,000	
	Miscellaneous	51,070,000	
	Total	$1,057,770,000	

Year	Enterprise	Amount	Authority
1921...	Government bonds	$ 22,000,000	"A financier of long residence in Mexico." Figures represent actual investments.
	Bank shares	3,500,000	
	Steam railways	134,040,000	
	Light, power, and tramway companies	3,000,000	
	Mining and smelting	276,000,000	
	Coal mines	3,200,000	
	Oil lands and refineries	90,000,000	
	Manufacturing	13,020,000	
	Plantation, hacienda, and timber properties	105,000,000	
	Miscellaneous	2,038,000	
	Total	$ 651,798,000	
1925...	Government bonds	$ 22,000,000	United States Department of Commerce
	Railroads	160,000,000	
	Mining and smelting	300,000,000	
	Oil lands and refineries	478,000,000	
	Manufacturing	60,000,000	
	Wholesale and retail stores	50,000,000	
	Plantations and timber	200,000,000	
	Banks, telephone and telegraph, light and power companies, and tramways	10,000,000	
	Total	$1,280,000,000	

* These figures are mere approximations. Some represent capitalization, some value, others the actual money invested. It has not been possible to find statistics on the income from these enterprises or to determine the effects of the revolution and of the new policies of the Mexican government upon their yield. See in connection with the matters of this Appendix: S. W. Robertson, *History of the Latin-American Nations* (New York, 1925), pp. 573 ff.; Robert W. Dunn, *American Foreign Investments* (New York, 1926), pp. 89–107.

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O'Shaughnessy's *A Diplomat's Wife in Mexico* (New York: Harper & Bros., 1916) and *Diplomatic Days* (New York: Harper & Bros., 1917), as well as Edward I. Bell's *The Political Shame of Mexico* (New York: McBride, Nast & Co., 1914). Mrs. O'Shaughnessy is the wife of Nelson O'Shaughnessy, who was Chargé in Mexico City during the Madero period and the early part of the Huerta régime. Mr. Bell is an American journalist with much experience in Mexico. In 1927 Henry Lane Wilson published his apology for his conduct while ambassador in Mexico under the title of *Diplomatic Episodes in Mexico, Belgium, and Chile* (New York: Doubleday, Doran, 1927). The so-called "Preliminary Report" of the Fall Committee of the United States Senate (*Senate Document No. 285*, 66th Congress, 2d Session) is a mine of information, but it should be read with much discrimination, in view of the character and aims of Senator Fall.

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should also be added George M. McBride's illuminating study of *The Land Systems of Mexico* (New York: The American Geographical Society, 1923). Charles Wilson Hackett's *The Mexican Revolution and the United States* (Boston: The World Peace Foundation, 1926) is a thorough analysis, with a documentary Appendix, of the diplomatic correspondence which passed between the United States and Mexico during the period 1910–27. My own volume, *The United States and Mexico* (New York: Alfred A. Knopf, 1926), is the only general survey of the relations of the two countries during the last century.

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[2] See Edith O'Shaughnessy, *Intimate Pages of Mexican History* (New York, 1920), pp. 93–97.

[3] Wilson to Knox, *Foreign Relations* (1911), p. 521.

[4] Bell, *op. cit.*, pp. 151 ff.

[5] *Foreign Relations* (1912), pp. 794–95.

[6] *Ibid.*, pp. 792–93.

[7] *Ibid.*, pp. 833–34.

[8] The note bore the date of September 15.

[9] *Foreign Relations* (1912), pp. 842–46.

[10] Disorders appear to have been worse during the first week of November than during the last ten days of October.

[11] According to a subsequent report only thirty-seven Americans were killed in Mexico in 1911–12, and the death of the majority of these could in no way be attributed to the revolutionary disturbances (see *Foreign Relations* [1916], p. 477).

[12] *Ibid.* (1912), pp. 871–77.

[13] *Ibid.* (1913), pp. 924 ff.

[14] For Wilson's attitude and conduct during this crisis see *For. Rels.* (1913), pp. 699 ff.

[15] For a more extensive treatment of this section, with detailed citations of authorities, see J. Fred Rippy, *The United States and Mexico* (New York, 1926), pp. 322 ff.

[16] Near the last of August (1913), also, American citizens were "earnestly" urged to "leave Mexico at once" —an exhortation destined often to be repeated during the next two years.

[17] *Congressional Record* (63 Cong., 2d Sess.), LI, 6979 ff.; *Investigation of Mexican Affairs* (report of the Fall Committee), II, 2293.

[18] G. H. Blakeslee (ed.), *Mexico and the Caribbean* (New York, 1920), pp. 150–53.

[19] Published as *Senate Doc. No. 285* (Ser. 7665 and 7666; 66th Cong., 2d Sess.).

[20] Rippy, *The United States and Mexico*, p. 356.

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[22] Only experts with power to summon witnesses can determine the losses of United States citizens occasioned by the ten-year revolution in Mexico. Their true total may never be known. The future alone can reveal the effects of Mexico's agrarian and nationalization policies upon American vested interests. For investments of United States citizens in Mexico and the movement of United States–Mexican trade since 1910 see Appendix.

[23] Cf. *New York Times*, *New York World*, and *Christian Science Monitor* (Jan. 10–30, 1927); *Congressional Record*

(Jan. 8–26, 1927); and the *Nation* and *New Republic* for the same period.

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A MEXICAN'S POINT OF VIEW

JOSÉ VASCONCELOS

May 15, 1927

A MEXICAN'S POINT OF VIEW

The end of the Porfirio Díaz régime marks the climax of American influence in Mexico. The large American concerns had become accomplices and associates of the Díaz functionaires in the adjudication of immense country estates, and in the ownership of mines, oil wells, and industries. American imperialism had its official mouthpiece in Mexico City in the one-time-famous *Mexican Herald*. Everything was becoming Americanized in the Mexico of those days except the institutions and the methods of government; we were copying everything except the best traits of the North American civilization. Our government was a confessed and brutal dictatorship, corrupt in its dealings and cruel in its methods. And it took a revolution to demonstrate to the Mexicans that the abuses and corruption of the Díaz régime were not a perpetual calamity and to demonstrate to the Mexicans that the North American nation was not only the imperialistic power that disregards the moral interests of its neighbors, but also the humane community capable of sympathy and good will toward its neighbors.

The revolution, that is to say the moral and political upheaval initiated by Madero, started a new chapter in the relations between Mexico

and the United States. The American investor, the capitalist, was decidedly and constantly a warm adherent of Díaz, and looked upon the commencing revolution as an outbreak of banditry that should be suppressed. The North American public at large had become tired of reading the frightful stories of the Díaz despotism and sympathized with the Madero rebellion from the day it started.

For a short time I was one of Madero's secretaries, and in that capacity I spent a few weeks in San Antonio, Texas, attending to the work of propaganda and assembling supplies for the revolution. It was gratifying and surprising to all of us to see the deep interest people took in our affairs and how they showed themselves in sympathy with the liberating movement. Several times in opening our daily mail I found letters written by country-school teachers who sent us their congratulations for our efforts and a dollar gift for the good cause of liberty. The press of the United States, even the biggest dailies, were very often interested in our cause, and helped us with a strong and disinterested propaganda. It is true that whenever the revolutionary agents approached any American official they met a cold reception. It is true that the big interests were watching us carefully and did their best to save the falling Díaz régime. But it was easy for us to understand the two currents of opinion: one in favor of, the other against, our country. The great

mass of public opinion in the United States was in favor of the Mexican revolution because it felt that Mexico was entitled to freedom and progress just as much as any nation. Only the small group whom we may call the imperialists were of the outspoken opinion that Mexico did not deserve democracy and that a brutal dictator, an iron hand, was necessary to keep down a country of half-breeds and renegades. In my opinion, it is this double and contradictory attitude of the American nation toward ourselves that governs the different incidents and occurrences of our international relations in the period we are discussing.

When Madero, after overthrowing the old régime, was elected president a large majority of the American public acclaimed his victory, with even a personal pride, as an evidence of the beneficial influence of North American opinion in Mexico in the furtherance of democratic ideals. And they were right. Most Mexican liberals felt the same way, and no obstacle could be seen for a warm and sincere understanding of the two neighboring nations. Even the American residents of Mexico, who had all of them been Díaz supporters, allowed themselves to become contaminated with the popular enthusiasm for Madero and his methods. I remember being present at a dinner given in honor of Madero by the members of the Mexico City University Club. At that dinner, Madero was sincerely praised by such men as Am-

bassador Henry Lane Wilson and by the most prominent members of the American colony. It is almost unnecessary to state that in those days the whole of the Mexican nation looked upon Madero as if he were a sort of magician or idol capable of bringing immediate happiness for his people. Most of us who were close followers of Madero felt that we were enjoying a sort of political honeymoon which never would end. One must remember that we were all very young persons.

So deep and sincere was the good feeling between Americans and Mexicans during the first year of Madero's administration that the old reactionaries, enemies of the new régime, finding no serious fault in Madero and his methods, started to spread the tale that Madero was such a good friend of the Americans because Americans, and particularly certain oil interests, had helped the revolution. Certain journalists went so far as to print stories about a supposed commercial duel between the British oil interests and the American oil interests, a duel in which Madero was supposed to be on the side of the American companies.

The truth is that at the beginning of the Madero régime the influence of the oil interests in Mexico was not yet so powerful as it was to become later. Besides that, nobody can overlook the fact that whatever concessions or privileges may be enjoyed by the oil companies those concessions or privileges were not grant-

ed by the Madero government; they were all given and signed away by Díaz himself. Nevertheless, the existence of a supposed plot of the oil interests to overthrow Díaz—who had given them all sorts of advantages, legal and illegal—to bring into power Madero, who never signed a concession, has been circulated repeatedly throughout the world. The defenders of despotism in Latin America and the reactionaries of Mexico have repeatedly accused Madero of being sold to the Yankees. Madero was accused of selling the Magdalena Bay to the United States, but it was Porfirio Díaz who granted a lease upon that section of our country, and that lease is today non-existent, notwithstanding Madero's good will toward the Yankee. Madero always lived in sympathy with the good traits of the American civilization, with its love of liberty and its love of truth.

But Madero never had even the chance of "selling out" to the Americans, simply because he never made any dealings with public interests, either foreign or Mexican. Madero ended the concessions régime, and had nothing to give out and nothing to sell. It was during the Madero administration that the first agrarian laws of Mexico came out, and one of these laws forbade the government to sign grants of more than five thousand hectares, about ten thousand acres.

Three things contributed to make Madero unpopular with the American residents in Mex-

ico: the ending of the concession system, the growing independence and unrest of labor under the influence of the revolution, and impatience resulting from prolonged unsettled conditions. The *Mexican Herald* and all of the big newspapers of Mexico, acting on behalf of the big interests, initiated the offensive against the Madero régime. The business promoters of old days turned against Madero bitterly when they became convinced that there would not be any more chances for graft through the squandering of natural resources. The holders of the old concessions and grants felt themselves menaced in their possession of illegal advantages. A régime of law, instead of a régime of favor and bribe, was fatal to their particular sort of business. And the man who was fighting the battle of honesty was pilloried as a weak and mercenary fool by those same gentlemen who had accumulated fortunes through bribe and through graft during the preceding régime. Mexican profiteers and the North American adventurers of trade were allied in their decision to combat and if possible overthrow Mexico's new administration. Unfortunately, a part at least of the official United States took sides openly with the enemies of Mexican democracy. Ambassador Henry L. Wilson became the leader and the mouthpiece of the discontented, using all the power of his privileged position. The Republican administration headed by Mr. Taft was near the end of its term; and it was taken for

granted that a government supposed to be in sympathy with the concessionaires and the capitalists could not view with favor any effort of the Mexican people toward betterment and freedom at the expense of privilege. For a long time the big interests had been friends and supporters of the "iron man," Porfirio Díaz, and it was no surprise to anybody that they should distrust, to say the least, the ability of Madero, the man who had taken upon his shoulders the the task of regenerating a country.

Madero, talking one day about the increasing difficulties between his government and the American Department of State, said to me in his calm, optimistic manner: "Do not worry; it is only a question of time. In a few months we shall have a friend in Washington."

He was referring to the man who a few years later became a world-figure. For Madero not only knew all about President-Elect Wilson's political career and writings, but he kept in his archives a letter written by Governor Wilson congratulating Madero upon "the victory of a revolution that promised to establish freedom and justice in a large nation of the American continent." Madero was right in judging Mr. Wilson as his friend, but in the race for time that ensued, Madero was to be the loser. The first thing that Madero was disposed to ask from his friend President Wilson was the withdrawal of his personal enemy, Ambassador Wilson. With such an ambassador out of the coun-

try, the wealthy Mexican conspirators would not have dared to go ahead. Indeed, if it had not been for Ambassador Wilson's promise of prompt support from Washington, the discredited leaders and disloyal soldiers who engineered the Victoriano Huerta rebellion would not have dared to advance their plans. Madero was overthrown and murdered one month before President Wilson took the oath of office. But President Wilson responded to the call of his friend Madero and to the outcry of justice by withdrawing Ambassador Wilson from Mexico and by refusing to recognize as statesmen the murderers who had dispatched Madero. And so the Mexican nation discovered that President Wilson was a friend.

President Wilson never recognized the government created by the murderers of Madero, and we all admired him for his loyalty to a moral principle; but can we say as much for the State Department in carrying on such elevated purpose? During six months or more the inhabitants of the border could witness the absurd and almost unbelievable situation of a government *de facto*, like Victoriano Huerta's—a government repudiated by public opinion and by reiterated statements from Washington, yet receiving all sorts of ammunition and war materials from manufacturers in the United States to combat the counter-revolutionists who fought from just anger and for just revenge.

No sane person could ever believe that a

bloodstained drunkard like Victoriano Huerta, or any of his close assistants, could be capable of organizing a stable government in Mexico, and yet there were many foreigners who did their best to support Victoriano Huerta, not for his own sake, but because they hoped that a prolonged internal war in Mexico would not fail to give excuse to American armed intervention; and even though they did not count with President Wilson, the interventionist party did not rest a day in its efforts to impose upon Mexico a foreign rule, favorable to the moneyed interests that look upon Mexico simply as a field for exploitation. Yet we acknowledge at the same time that public opinion in the United States was wholly in favor of the Mexican revolution. The manner in which Madero had been sacrificed, and the part played by an American ambassador in affairs at the time convinced everybody of the formidable intrigue that was trying to use the power of a great nation in the interests of a group of unscrupulous investors.

It was, then, perfectly true that President Wilson represented the opinion of America when he made his famous statement that his heart and soul were in favor of the "submerged 90 per cent and against the fortunate 10 per cent of oppressors." The press of the United States, although less enthusiastic than in the Madero days, still was favorable to the ideals of the Mexican revolutionists. All of these facts were

known in Mexico and greatly appreciated by the vast majority of the people; and they served to calm down and to eradicate, at least for a time, the anti-American sentiment that had been created as a result of the activities of Ambassador Henry Lane Wilson, who was regarded as an open enemy of Mexico and an ally of the worst traitors our history had ever produced. The bad feeling created by acts of the Taft administration which had embarrassed Madero in every possible way was being relieved, and the Mexican people began to feel that there was on the other side of the border something more than a pack of wolves ready to come down and prey on their failures. Of the two currents of American public opinion of which I have spoken, the moral and sympathetic current, representing the majority of the American nation, opposed to the selfish, unconfessed purpose of rape and conquest, the first and most widespread maintained precedence during all of President Wilson's administration. We feel bound in justice to recognize this, notwithstanding the many serious errors of the Wilson policy which we do not desire to minimize, or to justify.

Madero had been overthrown not by a revolution, but through a coup d'état, by an act of treason, an act of surprise, and the reactionaries that took advantage of his downfall had taken possession of the machinery of government, the army, the budget, and all else.

On the other side, the sympathizers of Madero, the independent citizens, had no weapon in their hands, and no organization, but they had a banner. And with this banner of justice for the re-establishing of constitutional government the Mexican people started a desperate struggle. With no big leader at their head, and with no motive except hatred of crime and a faith in political virtue, armed bands began to organize themselves in all sections of the country. Perhaps there has never been in Mexico a more popular revolution than the revolution that was called "constitutionalist" because its purpose was to organize a government based on the consent of the people and the dictates of the constitution, and to overthrow and punish Victoriano Huerta and his group of usurpers.

As soon as the constitutionalists were able to adopt some sort of organization, a commander-in-chief was appointed and the world began to hear the name of an obscure personage who was to give a great deal of trouble both to Mexicans and foreigners on account of his undeniable incapacity for the task that chance had put into his hands. Venustiano Carranza came into power representing in his own person all of the interests of the revolution and many of the best interests of the Mexican nation. In his dealings with the United States, Carranza showed himself very often untactful, but always dignified. And one of the reasons why Mexicans

showed him such forbearance in many other respects is to be found in the sympathy he won for himself through a persistent defense of Mexican rights and etiquette in all of his international dealings.

Nevertheless, Carranza was accused on several occasions, as Madero had been accused before, of receiving support from the American government and from American business interests. For a time, a very short time because Victoriano Huerta failed, the story went on through Latin America and elsewhere that Victoriano Huerta was a nationalist and a patriot, and that the revolution carried against him was supported by the American oil interests as against the British oil interests, which had early shown a particular inclination toward the Huerta administration. This appeared to many, therefore, as a continuation of the Porfirio Díaz "iron rule."

But the people of Mexico could not be fooled so easily. The people of Mexico knew that the success of the constitutionalist revolution was not only a matter of national honor, but also a question of self-salvation. No Mexican could look with pride upon his flag so long as Victoriano Huerta remained in power and unpunished. Whoever sympathized with the constitutionalist revolution was classed a friend of Mexico; and we found many friends in the United States. We did not find any material, practical help in our struggle; none of us wanted to re-

ceive that sort of help. All that we asked was neutrality, and finally we obtained neutrality, when the embargo of arms on the border was ruled in such manner that both factions could obtain ammunition from the American manufacturers and carry them, at their own risk, across the border. Later on, the State Department went further, forbidding the delivery of ammunition to the *de facto* Huerta government. This measure was not deemed wise even by many of the revolutionists; and, in fact, it gave rise to one of the most regrettable incidents of this period. I refer to the American occupation of Vera Cruz.

It seems that the original intention of the State Department was simply to prevent Huerta from receiving a certain amount of ammunition purchased by him in Germany, and with this object in view, American warships were sent to Vera Cruz. Previous to that, there had been certain difficulties between the United States government and the Huerta government such as arose from the flag incident at Tampico, for example; but there being no state of war, it is evident that the American government had no right to interfere with the shipments of arms to any of the Mexican factions. In spite of this, the illegal order was given for the capture of the Huerta shipment. To carry out the order, in view of the fact that the cargo had already been landed, a disembarkment of American marines at Vera Cruz was necessary. No mat-

ter what justification there may have been in the mind of President Wilson for ordering such a step, the fact is that it created a very unfair and shameful situation. It became worse when, after fighting, the marines were ordered to retain Vera Cruz. For several months we had to face the offense of a Mexican port occupied by a foreign army, the army of a power with which officially we were not at war.

I was in New York as agent of the Carranza revolution when Vera Cruz was occupied. As soon as we read the news my other associates and I cabled Mr. Carranza, suggesting that he recall us and that he protest against such an attack upon Mexican sovereignty. Mr. Carranza had already sent his protest, and instructed us to stay in our posts until further instructions were communicated. A few hours later we received assurances to the effect that the invasion of the American marines would not go any further, and that the occupation of Vera Cruz was only temporary, and had been unpremeditated but brought about by local circumstances.

On their own side the partisans of Victoriano Huerta managed to use the occupation of Vera Cruz for their own benefit. All Mexicans were called to arms, with the supposed purpose of repelling American intervention, but in reality to be sent against the constitutionalist forces that had gained ground everywhere. The most sane element of the Mexican people,

though offended at heart through the Vera Cruz disembarkment, could not fail to show their scorn toward the traitor Victoriano Huerta who had been aided by an American ambassador in the overthrow of his own government, and yet who was calling his compatriots to arms in order to repel American invasion. The truth is that Victoriano Huerta had instructed his troops to evacuate Vera Cruz at the time of the American disembarkment. The desperate resistance that for a few hours was offered to the landing party was due to the heroic prowess of a dozen or more cadets of the Mexican naval school and a few more private citizens who died fighting bravely and blindly for the honor of their country. In the whole regrettable incident of the Vera Cruz occupation, these were the men who undoubtedly did their duty. And the Mexican nation, irrespective of party sentiment, has dedicated to them a monument on the same spot where they fell gloriously, and not without purpose.

The American occupation of Vera Cruz did not help the constitutionalists in any way whatsoever. The military power of Huerta was already broken at the time, and the Vera Cruz incident gave Huerta a momentary moral strength for many misinformed citizens felt it better to follow a rascal like Huerta than to accept a foreign interference. The Vera Cruz disembarkment did no good whatsoever to the American nation or to the American interests

in Mexico. On the contrary, it created a bad feeling against Americans, a bad feeling that had completely disappeared as a result of President Wilson's earlier humane policy toward Mexico. The Vera Cruz incident harmed Mr. Wilson in the esteem of the Mexicans and did much harm to American prestige throughout Latin America. Perhaps it was the most serious mistake of Mr. Wilson's policies toward our country.

Impelled by the continuous and victorious advance of the constitutionalist forces and, taking the occupation of Vera Cruz as an excuse, the representatives of Victoriano Huerta managed to awaken the interest of the governments of Argentina, Brazil, and Chile in our Mexican affairs. The principle involved in the intervention of what was called the "A B C," representing the three chief Latin-American powers, was a very sane and welcome principle. Every Mexican felt that the brother nations of the south were not indifferent to his plight when it was advertised that they intended to offer mediation services. Unfortunately, some of the diplomatic representatives of these nations, through their unreserved sympathy with the Mexican reactionaries, allowed themselves to be used rather for the protection of Victoriano Huerta and his associates than for the interests of Mexican sovereignty.

A conference was arranged between the South American diplomats residing in Wash-

ington and the Victoriano Huerta representatives. The United States agreed to send representatives, and the *de facto* government of Huerta assumed the representation of Mexico, although the Carranza government was also invited. The meetings were to be held at Niagara Falls. I happened to be named by Mr. Carranza as one of the representatives of his government, but with instructions to abstain from going to Niagara Falls. In this Mr. Carranza was right. Mr. Carranza's position was that he accepted and accepted gratefully the mediation of the "A B C" powers in order to negotiate with the United States for the immediate liberation of the port of Vera Cruz, retained by the American government without right, but that he and his representatives would refuse to discuss any question relating to the internal affairs of Mexico. On account of this last requirement, the Niagara conference came to a speedy end; clearly the purpose of many of the organizers had been to pave the way for the retirement of Victoriano Huerta who was already defeated, and the appointment of a compromise government that would nullify the victories of the revolutionists. In other words, the same interests that had killed Madero and had supported Victoriano Huerta came together upon Huerta's downfall, and under the mask of the "A B C," to steal away from the Mexican people another of its chances of betterment and self-government.

Carranza acted wisely in not playing the game of the enemies of Mexico, and Mr. Wilson, I believe, was not loath to see the Niagara conference converted into a failure. In fact, the victory of the constitutionalist forces in driving Huerta out of Mexico actually destroyed one of the parties in the Niagara affair, and it was the most selfishly interested party.

After Huerta left the country and the victorious revolution established itself in power, everybody thought that a period of good understanding was bound to come between the United States and Mexico. President Wilson's idealism had won over the imperialistic forces in the United States that had tried to bring about intervention during the period of the struggle between the Mexican factions. In the banner of the Mexican revolution there was also an idealism that could easily meet the Wilsonian creed: a democratic form of government; fair treatment for the oppressed masses, an agrarian reform so badly needed by a country that maintains a feudal land system.

On this occasion, it was not the American State Department's fault, but our own, that brought about a long series of difficulties. To understand some of the international incidents that ensued it is necessary to follow the internal vicissitudes of our factional politics.

During the year and a half of the struggle against Huerta, all of the rebel, all of the constitutionalist forces had obeyed, without dis-

cussion and blindly, all the dictates of Venustiano Carranza, the acknowledged chief of the party and the provisional chief of the nation. But it was only natural that as soon as the war terminated the country should govern itself according to its constitution and no longer through the dictate of one man. Carranza's most criminal mistake was to evade the constitution, and to organize a personal government that called itself "pre-constitutional," with no other purpose than to prolong the exercise of dictatorial powers. Naturally this act of treason on the part of Carranza brought about immediate rebellion in his ranks. And also many selfish leaders, who had only been waiting for a chance to depose Carranza from command, took the field against him, encouraged and authorized by Carranza's scoffing at his own banner.

The best elements of the revolutionary party then came together in a convention at Aguascalientes. In this convention Carranza was deposed from command although with due respect and appreciation for his services. At the same time the convention resolved that none of the chief military leaders could take the executive office, and a provisional president was elected. It was understood that in the immediately coming election Mr. Carranza would be elected constitutional president of Mexico. But Carranza preferred to go through the back door. He was afraid to relinquish command even for

an hour, and instead of accepting the resolutions of the convention he openly defied it. At the same time a group of politicians, gathered around the military strength of General Villa, and bitterly antagonistic to Carranza, thought it would be easy to defeat Carranza as a rebel and thus eliminate him as a presidential candidate. The result was that open war broke out between the Carranzistas and the Villistas. The true patriotic revolutionists, loyal to the decisions of the convention, were caught between fires, bitterly persecuted by both factions.

Thus were formed the three divisions in which the revolution unfortunately broke up. There was a time when each of these factions had a representative in Washington. I was representative of the party of the convention.

What did we seek in Washington? It has often been said that Mexican revolutions are financed and directed from the United States by persons who have no legitimate interest in our country. I have spent months, perhaps years, between Washington and New York, representing in different capacities one or another of the revolutionary factions, watching the proceedings and behavior of rival groups, and reading all about a supposed industry of filibustering; but the truth is that I have never come in contact with a single piece of evidence of such misconduct.

The Mexican factions send their representatives to Washington when they feel powerful

enough to constitute a government, and for the purposes that any other government sends representatives. The goal of every confidential agent is to obtain recognition for his party as a legal or *de facto* government. Even the granting of this recognition does not involve any favor. It means simply that the ports between the two countries are open for commerce, and that the faction which controls the ports and obtains recognition is able to import freely all sorts of war material. This military advantage means a great deal for the warring parties, but in no way does it imply any illegitimate help on the part of the United States government. War munitions have been purchased from private individuals (except in a recent case) and paid for in cash, by the party making the purchase. Recognition, as a rule, also means that the rival faction is not allowed to import war material, but, in many cases, more than one party has been able to acquire war material through the practice of recognizing a belligerent party, besides an established and previously recognized government. Perhaps Mexicans would have felt satisfied with a ruling from Washington, forbidding all exports of war material from the United States. It would be better if we were left to fight our own wars with our own resources, but so long as one faction gets the benefit of the foreign supply it is natural that the other should endeavor to secure the same advantage.

When I arrived in Washington to represent the government created in the convention of Aguascalientes with the support of many a general who after stamping his name on a flag, the flag of the convention, changed sides and went to the ranks either of Carranza or of Villa, I found the two personalistic parties, the Villistas and the Carranzistas, already established there, amply supplied with funds for propaganda and protected by powerful alliances and sympathies. It was freely stated at the time in Washington that Mr. Bryan, then at the head of foreign affairs, was favorably inclined to the Villistas. The Carranzistas had a number of strong connections and an unlimited budget. On our side I had nothing but justice and clear, evident, indisputable right. If Washington had looked with favor on the Mexican revolution, was it not because it represented a democratic tendency, a liberal form of government? How, then, could Washington accept any connection with leaders like Villa or Carranza, fighting openly for personal aggrandizement? The followers of the convention had sent me to ask nothing but neutrality, nothing but a chance to fight our last battle for justice. All that we asked was that neither Villa nor Carranza would receive any help, indirect or direct. And in the name of the Mexican people we asked that neither Villa nor Carranza should be recognized as head of the Mexican people, because both of them were seeking power

through military force and not through the vote, not through the consent of the governed.

As will be easily seen, this request of the Mexican democracy, in a struggle with military leadership, was in entire accord with the doctrines of the American democracy, as expressed in a celebrated speech of Mr. Wilson's, the speech in which he promised to abstain from recognizing governments originated in military force.

When my lawyer took up the question formally, I was told "it was a pity that our case so evidently just was not backed by a powerful army." In fact, we were absolutely ignored. But Villa, even Villa, was receiving attention, simply because Villa was constantly creating trouble and once in a while committing murder. This sort of attitude would seem only too natural on the part of any common, practical person; to deal with the faction that had power and to disregard the weak one, even though it was right, would have been a logical policy for every government except the government that through repeated pronunciations of President Wilson had presented itself as a champion of democracy and free government in all the Western continent.

Let me say again that the only thing we asked for—and our papers must be on record in the Department—all that we asked was that no hasty action be taken and that the American government should not give the benefit of

recognition to any of the warring factions, until a civil constitutional government was organized. The Villistas and the Carranzistas, each on their side, were actively working for immediate recognition. Finally, Mr. Wilson decided to recognize Carranza. We never criticized Mr. Wilson's choice of Carranza instead of Villa. Having before him two personalistic factions, he had to judge them through the personality of the chiefs, and Carranza with all his faults was infinitely superior as a statesman to the wild-tempered Villa. What we did criticize was that any recognition had been granted. What we did criticize was that recognition was granted not because Carranza was right, but because Carranza had more soldiers in the field, and because Obregón, the Carranza general, had defeated Villa. Again we saw that from a merely practical point of view it was natural to recognize the man with most power. But was not this manner of acting a plain denial of Mr. Wilson's moral attitude? Was not this method of judging exactly the method advocated by those that demanded from Mr. Wilson the recognition of Victoriano Huerta, simply because Huerta had at the time a powerful army?

What did we expect, then, of the Wilson idealism? What would have been the outcome of a persistent refusal to recognize governments, based on military force? In my opinion, nonrecognition of personal leaders would have

helped the Mexicans to bring about an agreement for the elimination of rival chieftains. The best evidence that this solution did not seem impractical, even in Washington, is found in the fact that Mr. Wilson went as far as to suggest it in one of his notes. But it happened that exactly at the time when the warring factions and the patriotic Mexicans were getting ready to bring about such a meeting for the organization of a constitutional government suddenly our people learned that General Carranza had been recognized as the government of Mexico. One general was recognized as a government, exactly as in the old days, exactly as Porfirio Díaz, one man, had been recognized for many years, not only as the head but as the body and soul of the Mexican nation. This decision of Mr. Wilson was for many of us one of the most regrettable failures of his idealism. Carranza with the sole privilege of purchasing arms and ammunition in United States was able to suppress his enemies, and even succeeded in retaining power for a period longer than was authorized by the law. For a long time it was impossible to criticize publicly the recognition thus granted, because the Carranza propaganda funds were spent lavishly in order to silence or mislead public opinion.

The only protest that broke out against Mr. Wilson's sudden alliance with Carranza was a savage and a most dangerous protest. Francisco Villa, angered at what he thought was a

jest to his friendly attitude, approached the border, and being completely ignorant of the gravity of his decision, attacked by surprise the town of Columbus, across the border. A *casus belli* was created. Indignation ran high in the American public. Mexico felt that a serious danger was being incurred through the wild, even treasonable, act of a brigand. Carranza immediately took this attitude, and was right in doing so. He had not been right in seeking recognition in order to gain power to destroy Mexicans, for purely personal aggrandizement, but after the Villa raid nothing was left for any sensible Mexican but to disavow the offender and try to punish him as an outlaw.

Many Mexicans resented the recognition granted to Carranza as an act of partisanship and an evident instance of meddling in the internal affairs of Mexico; but there is not one Mexican, I believe, who can fail to admit that President Wilson, in the face of the Columbus scandal, behaved like a man honest in purpose, and with wisdom as a leader of public sentiment. The interventionists had never had a better excuse for their intentions than the excuse afforded by the Villa raid. The offense was so grave, although made by an irresponsible chief, that some immediate action had to be taken. Mr. Wilson deceived the interventionists and at the same time satisfied public opinion in his country, when he invented or very aptly applied the name "punitive expedition"

to the incursion of American troops which he ordered into Mexican territory with the specific purpose of capturing Villa in order to deal with him as a bandit. Carranza managed to base his non-protest of the incursion on some old agreement regarding frontier policies relating to Indian tribes and smugglers. Thus, actual war and intervention were avoided, through the wise efforts of both governments. In fact, I believe, this case was the test of Mr. Wilson's true attitude toward Mexico, and it is plain that in the face of a most difficult situation he did the least possible harm.

The Pershing expedition finally retired from Mexico, and the port of Vera Cruz was finally evacuated by the American marines. Most of the regular war claims and difficulties were about to be arranged, and could easily have been arranged, had not a series of more serious international difficulties been created as a result of legislation made by the Mexicans in the midst of factional rivalry and warfare.

Carranza had been accused of having no platform. His answer had been to the effect that his whole purpose was to re-establish constitutional government; but according to the constitution then in existence, the constitution of 1857, Carranza could not become presidential candidate without resigning from command of the army and from the exercise of executive power. Carranza insisted on occupying the presidency while elections were in progress,

elections handled exclusively by himself. The constitution was in the way. He did away with the constitution, and after assembling a group of personal followers, he handed out a draft of a new constitution, containing clauses that allowed him to do as he pleased in political affairs. A small radical group in the assembly consented to give Carranza all sorts of political advantages so long as they could supplement Carranza's draft of a constitution with certain agrarian and labor reforms, that they thought, justly, the revolution demanded. In this manner was created the constitution of 1917, and with it such articles as the widely discussed Article 27 regarding landholdings.

As everybody knows, this Article 27 is the basis of all the disputed oil legislation. The promulgation of this law brought into the field of Mexican politics the great factor about which everybody has heard in late years—the oil companies.

Being the most powerful capitalistic interests of the country, the oil companies have become the champions of opposition to all of the social legislation of Mexico. According to the oil companies, our laws are confiscatory and outrageous. Those protests, and the consequent enmity, did not have much chance to show themselves during the Wilson administration, but as soon as a change of government occurred in Washington, Mexicans found out that there was a new adverse power to deal with.

And since then, the history of our diplomatic relations with the United States has been tainted with oil, complicated with the oil legislation and exploitation.

The most objectionable portion of Article 27, most objectionable to the oil companies, is the provision that the subsoil belongs to the nation. The consequence of this provision is that oil wells cannot be exploited freely by the owner of the land, but are subject to special legislation and requirements. The principle involved is not a new one in our law. When the Spaniards realized that the mining industry was destined to become the main industry of Mexico, and a vital element of its economic life, they created in our mining legislation a principle that has been applied for centuries, a principle that forbids the owner of the land to exploit his subsoil, unless he goes through the procedure of making what is called a *denuncio*, that is to say the securing of a permit through the payment of special taxes, etc. At the same time any individual, any explorer, is authorized to apply for this *denuncio* even though he is not the owner of the land, and even if the owner of the land opposes the proceeding. It is clear that these rulings of the Spanish law were in a way an attack upon the rights of property as guaranteed by the old Roman law. This Spanish law, although two or three centuries old, could be easily classed as radical and even bolshevistic by those opposed to every advance, to every

change, in human affairs. But the Spanish legislators, bold and advanced for their time, succeeded through this law in making Mexico the first silver-producing country of the world.

At the time when Porfirio Díaz gave out the first oil concessions, and at the time of the redrafting of our mining code, nobody had any idea of the importance the oil industry was destined to acquire in our country. Concessions were given out freely, without any provision for the protection of public interest. All of our mining laws contain a list of minerals that come under the provisions of special legislation. In such lists, the words "minerals," "gases," and "products" always appeared, but no specific mention of mineral oil was ever made. This is the omission that for a long time served to the advantage of the oil concessionaires. A privilege had been created, through bribery, in favor of the wealthy oil kings of Mexico. I have used the word "bribe" and not unthoughtfully. Evidences were published during the Madero régime to show that many relatives and close associates of Porfirio Díaz had received gifts of preferred stock in the Aguila Company. Everybody has heard of similar participation of politicians of the United States in other big oil concerns.

Our modern oil legislation then represents nothing but an effort to reduce to terms of justice an exploitation that has grown up in privilege, but that is now strong enough to submit

to the regulations of ordinary procedure and control; that is to say, to regulations that are identical with the mining regulations.

One of the features that has given grounds for a large amount of note-writing between the two governments is the contention of the oil companies that the new legislation is retroactive and that it should not apply to concessions granted before the issuance of the 1917 constitution. It is not our purpose to go into the discussion of the oil question, but we are bound to say, in passing, that every legislation is, in a way, retroactive, especially such legislation as is necessary to stop abuse and privilege. And it would have been ridiculous for the Spanish legislators, who created our mining laws, to declare that all previous grants of land were excepted from the principle of mining "denunciation." Such a proviso would have left the law entirely without effect. Laws demanded by public utility are, as a rule retroactive, and it is public utility that, by itself, justifies retroactivity.

The issues raised by our land and oil legislation never became acute during the Wilson-Carranza period. The attention of the American public was centered on the World War, and Mr. Wilson stated once and again, very plainly, that he would never use the enormous force of the United States government for the protection of privileged interests against public and national interests.

The constant word duels that occurred during the Carranza-Wilson administrations were due to different and less serious matters: protection of citizens against the acts of irresponsible bands and the like. As a rule, Mr. Wilson showed himself courteous and friendly. In all of his dealings with Mexico, perhaps as in all of the other acts of his public life, Mr. Wilson gave evidences of his honest and lofty temperament. He did not very often succeed and, what is worse, in many cases he did not use for a great purpose the enormous opportunities that fate had thrust upon his hands. Perhaps he was not bold enough for a real idealist, but he was not mean enough to be merely practical. Taken as a whole, I believe, his stand toward Latin America and Mexico will be remembered kindly among us, particularly when we compare it with the rash dollar-diplomacy which he persistently refused to serve. Had it not been for unexplainable cases like the occupation of Santo Domingo and the Vera Cruz affair, Mr. Wilson could be classed as one of the founders of a true and hopeful Pan-Americanism.

About the time Mr. Wilson ended his career, Venustiano Carranza was deposed and murdered. A Republican administration came into power in the United States, and General Obregón became president of Mexico. The new situation found the oil companies stronger than ever; so much so that for about three years they succeeded in holding up recognition of the

Obregón government. It is puzzling to the superficial observer that Carranza should have been recognized as the executive power of Mexico at a time when he was holding office only through military force, and yet that Obregón, who had been elected and who was the successor of the same political situation which had brought forth Carranza, could not for so long a time obtain formal acknowledgment.

It seems that the real explanation of the irregularity lies in the fact that the big investors of Mexico, whose interests had been affected by the new laws, and who had been unable to manage things their own way during the Wilson administration, took advantage of the change of government in the two countries to create a situation that would be beneficial to their private interests. And the truth is that Obregón, who had not given out the oil and land laws, was not being recognized on account of these laws, while Carranza, the man who had actually signed and promulgated the laws, had enjoyed all the benefits of the United States' recognition.

The situation was so absurd and unfair that Obregón for a long time decided to forget all about recognition. He had the country at peace and commerce with the United States flourishing, and public sentiment between the people of the two countries was friendly. He could overlook the formality of having an ambassa-

dor in Washington and receiving an American ambassador in Mexico City.

Personally I believe it would have been better for the Obregón government to have gone on in this way even to the end of its term. The three years that Obregón lasted and prospered without recognition from Washington are a good lesson of the fact that when a government is popular and adheres to law the Washington recognition is not necessary for its perpetuation. I do not know if it was a matter of personal pride, or of pressure brought about from the outside, or, worst of all, a desire to prepare a strong personal advantage for the future, but General Obregón gave up the glory of being a successful, unrecognized president of Mexico in order to become a recognized ruler at a price that history may not judge worth paying.

The so-called Pani-Warren and Payne agreements provide for the creation of a claims commission to pass on damages suffered by American citizens during the revolution, and they contain certain rules as to the manner of indemnifying American citizens whose lands have been affected as a consequence of recent agrarian laws. These rules, in some instances, involved privileges to American citizens that no other foreigner or Mexican enjoyed, such as the partial payment of indemnity for expropriated lands. At the same time certain guarantees were given as to the non-

retroactive application of the oil laws. The treaties were informally approved. Recognition followed. The agreements went through the Mexican Congress practically without discussion in the lower house; by the time that the treaties reached the Senate, a revolution had broken out, in Mexico, as a protest against government interference with presidential elections. The treaties were approved in haste by the Senate; and nobody will ever be able to dissociate this haste on the part of the Obregón régime and the considerable shipments of ammunition that were obtained at the same time from the United States in order to suppress an ill-conducted rebellion, yet a rebellion that proved to be morally right when the executive power of Mexico was changed without elections, and through military victories, from General Obregón to his assistant, Mr. Calles.

The government of General Calles was recognized after the new Mexican executive had made repeated statements to the effect that all of the Warren and Payne agreements were to be upheld.

New negotiations have been going on between the Mexican government and the North American bankers. It is understood that all of these banking negotiations are submitted, before final approval, to the American State Department. It is evident from that that we cannot discount the influence of the big interests. But irrespective of individual politicians and

chieftains, a deep social struggle goes on in Mexico—the struggle to convert a country of colonial economic life into a country self-sustaining and really independent. By colonial economic life I mean the fact that for many years our laws have been shaped in order to protect the investor, in order to guarantee the profits. In more recent years, and as a result of revolutionary movement, there is a persistent tendency to resolve all of our problems which affect the interests of the inhabitants of our country to what we call "national" interests. We believe it is time that Mexico should protect its natural resources, resources that were freely squandered in the days of the concessionaires. Our nationalism is not aggressive, it is defensive; it is not aimed against anybody, but tries to protect the best interests of everybody. We know that some of our land laws, though branded as bolshevist by many uninformed, may some day be useful even to the small American investor who may find in Mexico a home when his own country becomes crowded. Many of our recent reforms are a safeguard for the future of Mexican prosperity and Mexican democracy. Such a policy not only serves the Mexican, but it serves human progress.

It is this persistent endeavor of the revolution to save our resources from illegitimate exploitation that has brought about during the present Calles administration many a law that has been vetoed by the notes of the United

States Department of State. Only our military weakness can explain the fact that we are singled out and accused of hating foreigners because we establish limitations to the right of foreigners to purchase our lands; and yet we are doing nothing else but copy American laws. Some even more drastic than ours do exist against the ownership of lands by foreigners in some states of the American union. Much printed matter has been going around the world to tell all about the notes exchanged between Mr. Kellogg and the Mexican Foreign Affairs Office. Mexican legislation may contain one or two exaggerated provisions, but nobody will question seriously that the best, the most legitimate, interests are on our side.

It seems that under the menace of a break in international relations the Calles government was forced to accept a recent agreement by which all American vested interests are granted a fifty-year term that can be extended another fifty years for the application of the new land and oil laws. By the end of this hundred years, probably the oil wells will be exhausted, or the oil will have ceased to be of prime importance for industry. New ways of producing fuel and energy will, we hope have been discovered by that time. The one-hundred-year extension practically annuls the effects of the laws. Perhaps the Mexican government thought that through that system it was saving the principle in maintaining its own laws

although the material effect of the same should be lost. Many Mexicans felt that in reality Calles was trying to find a way to give in to the American State Department's requirements and at the same time save his face before the critical eye of Latin-American nationalism that has kept such a close watch upon the whole affair. At any rate, the situation seemed about ended with the fifty-year-concession plan in order to substitute the old Díaz concessions when suddenly the oil companies, or at least a portion of the American companies, published statements to the effect that they would meet the requirements of the new concession system that was to come into effect at the beginning of January, 1927.

The note-exchanging between the two governments has been going on all the while, Washington insisting on what it terms the "protection of the rights" of its own nationals and Mexico taking refuge in the principle that any nation has a right to regulate the manner in which property is to be held and exploited in its territory. The situation of the Mexican government has become considerably weakened on account of local rebellion and distrust. No nation can put its faith in a political group that does not live up to the moral standards it proclaims. The suppression of all sorts of political rights, the everyday increasing number of political assassinations, the suppression of public vote, the increase in the taxes with no other apparent

results than the enrichment of the government group, and the disdain and hate of the Mexican people for tyranny and dishonesty have caused armed rebellions and, what is worse, a passive opposition to all that is governmental in Mexico.

And as a natural consequence, anyone can observe in reading the recent papers of the governments that there are blunders and contradictions on both sides and that the Mexican Foreign Office has shown hesitation. Just recently Calles himself made a statement to the effect that international difficulties might be settled through arbitration—although he added before the amazed North American visitors he was addressing, that such things should not come under arbitration. And this is exactly what I understand the American government declared, that the matter could not and ought not to be arbitrated. The true pity from a Mexican point of view is that most of these far-reaching reforms have not been studied carefully before being promulgated as it is better not to give out at all a law that cannot be inforced and, what is worse, the trouble lies in the fact that no government can be strong in its dealings with a foreign power if it does not count with public opinion inside of the national boundaries. Consequently, military despotisms can never succeed in enforcing any deep reform; they scarcely have the power to maintain themselves in office; and in order to maintain office

they have to waiver, they have to compromise, they have to adjust themselves to fate and fact.

It has often been stated that the State Department will withdraw its recognition of the Calles government if no agreement is reached in the pending questions, and many persons demand what will be the result of the withdrawing of such recognition. Personally I believe that a truly patriotic government, a government that has been able to conquer and deserve the support of national public opinion, has nothing to fear from the withdrawing of recognition by a foreign power. But those who know that they maintain their rule only through the power of guns are always very much afraid of a situation in which they cannot use the American government to persecute Mexicans who though living in exile in the United States may become dangerous to the factional rule of the moment. In other words, recognition is essential to the despot. Non-recognition by itself, non-recognition alone, means nothing to a patriotic representative government. I do not know how the present-day Mexican government may be willing to class itself.

The struggle is going on; the struggle between the two forces I pointed out at the start, the force of American democracy, akin to Mexican democracy and sympathetic with Mexico, and the dark forces of privilege that know no God except private advantage and personal success.

In our own rights, and in the honest feelings of American public opinion at large, we put our trust. May we be able to save, not only peace, but also the best interests of the people of both countries.

AN AMERICAN'S POINT OF VIEW

GUY STEVENS

JANUARY 31, 1928

AN AMERICAN'S POINT OF VIEW

INTRODUCTORY

It seems to be a favorite pastime for speakers and writers on Mexican affairs to delve deeply into matters of history and ethnology. An indulgence in this pastime is encouraged by Mexican government officials because it well fits in with their own efforts to confuse and obscure the facts and purposes underlying present relations between the United States and Mexico. In connection with these historical and ethnological studies one is often reminded of a sentence of Robert Ingersoll's, "With their backs to the sunrise, they worship the dark." For it not infrequently happens that the events of four hundred years ago are emphasized to such an extent that modern history, recent developments, and present conditions are entirely lost sight of; and, similarly, it frequently happens that questions of ethnology are gone into in such detail that either a bewildering fog or a dense obscurity is thrown around the people of Mexico as they exist today.

What Mexico's history may have been prior to 1910 does not change in the slightest degree the situation of Mexico today, nor indicate anything regarding the problems that lie ahead of her. It is true, and of course a matter of in-

terest historically, that the Mexican people for generations, perhaps for centuries, have been an oppressed people. The important fact, however, is that they are still oppressed; and the question of practical interest is how can and shall they be relieved from their oppression. History may tell us that the oppressors of the Mexican people several hundred years ago came from across the sea; and it might be pointed out, on the other hand, that they are now under a democratic form of government with rulers who come from among themselves. Nevertheless, from the standpoint of the person oppressed, it is more the degree of the oppression than the name or nationality of the oppressor that interests.

No doubt the Mexican nation presents an interesting field for ethnological study, but what is of practical interest at the present time is the Mexican as he has emerged from the past and as we know him today.

Fundamentally, what we broadly call "human nature" is a great deal the same wherever it is met. The deeper aspirations, characteristics, desires, and hopes cannot be set off by any distinct lines of climatic conditions or race. In the main, therefore, in spite of the emphasis persistently laid upon differences between the Anglo-Saxon and the Latin, and the differences between various groups of the Mexican people, we may judge with fair accuracy of the aspira-

tions, characteristics, desires, and hopes of the Mexican people from our own.

The turmoil which unfortunately has existed in Mexico almost throughout its history has given the outsider without personal knowledge of the people peculiar ideas with respect to them. But James Creelman, who knew them, said of them: "There is no gentler, no more polite and lovable people in the world than the great body of Mexicans."[1]*

In the matter of family relations, also, there has been misunderstanding of the Mexican people. On this subject James Creelman said, "Nor is there any country in which the domestic affections show more tenderly, even among the poorest and most ignorant."

President Calles, in his message to Congress on September 1, 1927, said, in discussing the religious situation, that the Mexican people are "indifferent to the suspension of the services." But no one who has stood in a Mexican cathedral and witnessed the devotions of the masses could go away with a feeling that religion and what it represents to them have no meaning for the Mexican people.

The Mexican people employed by foreign industries in Mexico have proved capable, efficient, and honorable. Very little difficulty has ever arisen except under the influence of agitators. Employees of foreign concerns have shown generally an ability to rise quickly from

* Numbered references appear at the end of the chapter.

the ranks of common into the ranks of skilled labor.

Just as the Anglo-Saxon desires to live in peace instead of in strife, so does the average Mexican citizen. He also, like the Anglo-Saxon, desires to look forward to better conditions economically and to better things intellectually for himself and his children in the future.

There is, however, some justification for the frequently used phrase "Mexican psychology." There is, indeed, in some respects a rather definite "Mexican psychology," the failure properly to understand which has had many results regrettable alike to the people of the United States and the Mexican people. But there is nothing particularly deep or mysterious about it. No one can understand it by a study of history alone nor merely by a study of both history and ethnology. Nor would it be possible within the scope of any brief discussion like this upon our relations with Mexico adequately to treat of it. It is, however, very easy to recognize and understand in contact with the Mexican people themselves.

Important in some respects as a knowledge of this "Mexican psychology" is to those who would correctly understand the nature and difficulties of the present international problems and to those who conduct our official relations with Mexico, its importance is often overestimated.

Much more to the point is what, by indulg-

ing in a little freedom of expression, may be termed the special "psychology" of those who now are, and of those who for the past decade have been, the leaders or associates in the governing group in that country. This is what makes the solution of our problems with Mexico difficult. This is the thing which it is more important to understand than any general "Mexican psychology."

Mexican officials speak volubly of Mexico's sovereignty, but they know when they raise this hue and cry that no question of sovereignty is involved in the present controversy and that nothing in the attitude of the United States suggests any limitation whatever upon the full exercise of her sovereign rights.

The Mexican government in 1917 states that the new constitution will not be given retroactive effect, but later it goes ahead and enacts legislation giving certain constitutional provisions retroactive effect and justifying it upon the ground that it is so provided in the constitution. It makes agreements with the United States government and United States citizens and then in effect repudiates such agreements. Its replies to official representations are often evasive and disingenuous. It gives the President of the United States official assurance through its Ambassador that there will be no "confiscation" of American-owned properties, but it apparently gives this assurance with such a mental reservation as permits

it to go ahead and in substance deprive American citizens of their property rights. It welcomes an American ambassador, but when it finds it cannot influence him to disregard the interests of his own fellow-citizens, it says he does not understand "Mexican pcyshology." From the standpoint of the Mexican government, understanding "Mexican psychology" means acquiescence in whatever the Mexican government desires to do regardless of how the interests and rights of others may be affected thereby. Newspaper reports indicate the extreme cordiality with which the new American Ambassador has been received in Mexico (October, 1927); but at the same time reports are current in the city of Washington of statements alleged to have been made by attachés of the Mexican Embassy to the effect that if the wiles of the Mexican government are not successful and the new Ambassador, like his predecessor, should insist upon proper recognition of and protection for the rights of American citizens in Mexico, propaganda will be poured forth to the effect that his ideas are the ideas of "Wall Street" and that he therefore failed to understand "Mexican psychology" and the "legitimate aspirations of the Mexican people."

Thus the Mexican government itself plays with the term "Mexican psychology" whenever it suits its purpose to do so; and as many people have a tendency to feel that information coming out of Mexico relative to things Mexican

must be both authentic and expert, they are often inclined to attach an undue importance to this phrase and, like the historians and ethnologists, to focus their attention so strongly upon that imponderable thing that they lose sight of what is much more definite and of much greater practical importance—the special "psychology," or the attitude, character, and tactics of those who from time to time succeed in setting themselves up as the official spokesmen of the Mexican people.

In the last analysis, however, more important than any history, ethnology, or psychology are the facts directly involved in and underlying the several phases of our present relations with Mexico.

THE AGRARIAN PHASE

Malcolm C. Little, in his monograph on *The Land Laws of Mexico*,[2] refers in the following language to what, for present purposes, may be considered the origin of the "agrarian program":

> One of the avowed purposes of the Madero revolution was the redistribution of the landed property of Mexico. It failed of accomplishment. The idea had, or was thought to have, a potent influence on the lower classes, and found expression in subsequent "plans" of new revolts and in revolutionary literature as an "agrarian policy." In its early application, the term lacked definition. . . . . We now clearly understand its purpose, manner of oper-

ation, and can estimate its effect upon foreign holdings. . . . . With reference to the methods employed, we hesitate to use the term "confiscation" which connotes bad faith, but where property is taken without effective compensation, no other word will adequately express the idea.

Although land distribution was one of the principal slogans of the Madero revolution, the actual initiation of the program and the wholesale assault upon private property rights really date from the issuance by Carranza on January 6, 1915, of a decree providing for the "restoration" and grant of *ejidos*, or "commons," to villages and other communities. By this decree there were declared annulled certain transfers of land once belonging to villages and other communities, all sales of land made by the Department of Agriculture subsequent to 1876 "by which federal lands, partitioned lands and lands of any other class belonging to the people or community have been invaded and occupied illegally," and all boundary lines established by judges or other authorities of the states or nation, by which any such lands "have been invaded and occupied illegally." The import of the decree was that the lands, the previous transfers of which were thus declared annulled, should be "restored" to the communities or other former possessors. The decree went further, however, and provided that communities which could not obtain "restoration" either "for lack of title" or other specific reasons

"may obtain a grant of sufficient land to conform with the necessities of the inhabitants by expropriation for account of the national government." There is clearly implied in the word "expropriation" here used compensation to the owners of lands thus taken; but the decree also provided in Article 10 that although persons feeling that their interests had been prejudiced might have recourse to the courts within one year, where the aggrieved party in any such case obtains a judicial decision against "restoration," such decision "only gives him the right of receiving the corresponding indemnification from the government of the nation." Thus no aggrieved owner could, by resort to the courts, secure a return of his property, but only a decision which should establish his right to receive compensation. However, out of abundant caution, Carranza on January 19, 1916, issued a further decree dealing with this phase of the matter, ordering the states to "refrain from taking any action regarding the payment . . . . as this is a matter with which the national government is concerned."

The decree of January 6, 1915, also provided for the creation of a national agrarian commission and local agrarian commissions for each of the states, which should have charge of the administration of the decree subject, however, in all cases to the ultimate decision of the federal executive.[3]

The new constitution of Mexico, promul-

gated early in 1917, provided, with respect to the Carranza decree of January 6, 1915, that it "shall remain in force as a constitutional law." The constitution also provided that if in any case a community could not legally "in the terms of said decree" be provided with land "by way of restoration," "those lands shall nevertheless be given to them by way of grant, and they shall in no event fail to receive such as they may need."[4]

A year after the issuance of the Carranza decree, General Calles, now president of Mexico, then military governor of Sonora, issued his decree No. 27, authorizing the seizure and cultivation of private lands for a period of one season, rent free.

The next important step was the promulgation of the new constitution signed at Queretaro, January 31, 1917. Its Article 27 provided four different methods for reaching privately owned properties, which for a clear understanding of the methods subsequently employed by the Mexican governments should be severally considered.

"Restoration" of "Ejidos"

As has been seen, the theory of "restoration" was formally evolved by Carranza and first given a colorable, legal sanction by his decree of January 6, 1915.

From the time of the early Spanish settlement of Mexico, the pueblos and other small communities

were assured in the enjoyment of communal lands under the name of *ejidos*. The Constitution of 1857, however, restricted the ownership of real estate by municipal and other civil corporations to the area directly required for municipal purposes. Pursuant to this constitutional limitation and in accordance with formal laws enacted for the purpose, the *ejidos* were subdivided and allotted to the inhabitants of the pueblos, each head of a family receiving his pro rata share, to which title was issued through the Department of Promotions, the communal lands thus being reduced to private ownership.[5]

No question has ever been raised, even by the Mexican governments themselves, regarding the legality of the subdivision and allotment of *ejidos*, or of the private titles resulting therefrom. Indeed, in an official note dated March 31, 1923, from the Secretary of Foreign Relations of Mexico to the United States Chargé d'Affaires in Mexico City, it is admitted that the procedure was "caused by the Constitution of 1857," although the action is attributed to a "policy of favoritism . . . . developed by the Díaz oligarchy." So far as the writer is aware, the Mexican governments have failed to establish in any case that the lands taken for "restoration" of *ejidos* had been "invaded and occupied illegally," as the Carranza decree implied, or forced or "stolen" from the communities, as often suggested in the unofficial statements of Mexican officials. And certain it is that a "restoration" to its former law-

ful owners of land claimed, but not lawfully acquired, can involve no international question. In considering our present relations with Mexico, therefore, we are concerned only with the taking for *ejidos* of lands lawfully acquired and rightfully possessed by those from whom they are so taken.

EXPROPRIATION FOR "EJIDOS"

Both the Carranza decree of January 6, 1915, and Article 27 of the constitution of 1917 provide for the expropriation of private lands to be granted to communities as *ejidos* or commons. Carranza and the constitution are each silent, however, regarding the form, manner, or time of any payment to be made for lands so expropriated, except as Carranza in his supplemental decree of January 19, 1916, warned the states against paying for any such lands, that being an exclusive prerogative of the national government.

During the pre-recognition conferences between American Commissioners Warren and Payne and Mexican Commissioners Ross and Roa, held in Mexico City in the summer of 1923, the expropriation of lands of American citizens for *ejidos* formed one of the leading topics of discussion. In substance, the governments agreed at that time that lands taken for *ejidos* should not in any individual case "substantially exceed 1,755 hectares," or approximately 4,334 acres; that in the taking of lands

for such purposes the Mexican government would have due regard "for the extent of the property from which the land is taken, for the construction of aqueducts, artificial works, crops, etc., on said lands and damage to the remainder of the property"; that any excess over 1,755 hectares would be paid for "on a basis of the just value at the time of the taking . . . . in cash"; and that, as to the 1,755 hectares taken in any one case, the government of the United States would accept on behalf of its citizens payment in the form of bonds.

There are now pending, and constituting one of the problems between the governments of the United States and Mexico, a large number of claims of American citizens in respect to lands taken for the "restoration" or "grant" of *ejidos*, of which no adjudication has as yet been made, or seems likely in the near future to be made, and on account of which no payments have as yet been received by or offered to the American owners, either in cash or bonds.

Just how the Mexican authorities have proceeded in the matter of *ejidos*, and the manner in which the rights of American citizens have been affected by such procedure, can best be indicated by reference to a few specific examples.

In 1899 an American citizen purchased a tract of national land from the Mexican government. At about the same time a village in the vicinity applied to the Mexican government

for a grant from the national lands. In order to make certain that there would be no conflict between these two grants, if made, the citizens of the village were called together in a formal meeting to consider the matter. It developed that there were two settlers on the tract purchased by the American citizen, and it was agreed that he should grant to each of them two hundred hectares, or about five hundred acres, of the land within his grant. Thereupon, the inhabitants of the village passed a formal declaration to the effect that the grant to the American citizen did not conflict with any of their rights and they had no objection to it. The American citizen duly made the two grants to the settlers upon his tract, and those grants and the declaration of the inhabitants of the village are still of record. In 1920, however, the inhabitants of this village applied to the agrarian commission of the state for a "restoration" to them of the tract purchased by the American citizen, and in 1923 the commission decided that the entire tract had belonged to the community for about one hundred years, and accordingly "restored" it to the community. Since then, the inhabitants of the village have been cutting wood and otherwise trespassing generally upon the property, and the American citizen has received no compensation or relief through the national agrarian commission or any other agency.

In 1897, a group of American citizens

bought a considerable tract of valuable grazing and arable land from a private owner. By successive decrees of the government of the state in which this property is located, issued from 1922 to 1925, all of this land has been expropriated, although the owners never received any notice of the proceedings for its expropriation and have never received or been offered any compensation of any kind.

In still another state in Mexico, an American citizen owned a tract of land adjoining a Mexican village which, by a decree issued by President Obregón in 1921, was to be granted about three thousand acres for commons. According to the presidential decree, the land was to be taken proportionately from several adjoining properties. The proportionate share to be taken from this American citizen would have been about two hundred and fifty acres. However, when the expropriation was made, about one thousand acres were taken from this American citizen, a disproportionate part also from another American citizen, while none at all was taken from several of the Mexican-owned properties. The approximately one thousand acres taken from one of the American citizens included practically all of his arable land. The matter was taken before the District Court in Mexico, which rendered a decision in favor of the American owner, but the authorities have paid no attention to the decision except to appeal it to the Supreme Court of Mexico, where

the matter lies along with numerous other cases of a similar nature. In the meantime, this American citizen is deprived of his property and has received no compensation.

DIVISION OF LARGE ESTATES

The constitution of 1917, in Article 27, also provided for the "division of large landed estates," the owner of estates so divided to be "bound to receive bonds of a special issue to guarantee the payment for the property expropriated."

The informality with which this provision of the constitution is administered may likewise be best indicated by reference to specific cases.

In the state of Chiapas, an American citizen owns a ranch, from about three thousand acres of which he has been excluded since 1923 by inhabitants of neighboring villages who have had various portions marked off and assigned to them by the village surveyor. For none of this has he ever received or been offered any compensation.

In the state of Sonora, an American citizen owns a large tract of valuable grazing and agricultural land. In 1916 General Calles, now the president of Mexico, then military governor of the state, gave the greater part of the agricultural land to the residents of neighboring communities. The American citizen went ahead, however, and spent a large amount of money

on irrigation works and other improvements, only to have President Obregón turn over practically all of the irrigated land to the "agrarians." When this American citizen purchased this property, he started work which gave employment to the inhabitants of the vicinity and brought them from a state of practical destitution up to the condition of prosperous and happy people. It was to some of these that the property was apportioned by President Obregón and, as an indication of how this part of the agrarian program works out, they are now practically in destitution again. In like manner, the American owner of this property has been reduced to a much less prosperous condition, having never as yet received any compensation in any form for the losses which he has thus suffered.

NULLIFICATION OF FORMER GRANTS

The constitution of 1917 also provides, in Article 27, that "the Executive is authorized to declare . . . . null and void all contracts and concessions made by former governments from and after the year 1876, which seriously prejudice the public interest."

In 1924 President Obregón, under the alleged authority conveyed upon him by those provisions of the constitution, issued a decree declaring null and void the title of an American corporation to a very large tract of land acquired under the following circumstances: In

1886 the government of Mexico made a contract with one of its own citizens for the survey of a certain area of public land. Under the contract the Mexican citizen was to receive a grant of certain portions of the land as compensation for making the survey. The grant was duly made to this Mexican citizen, and, after in the meantime passing through other owners, the property, about twenty years later, was purchased by this American corporation. The declaration of nullity is based upon the alleged invalidity of the original grant to the Mexican citizen. The decree states, for example, that the engineer who made the survey did not file any credentials showing that he was a duly qualified engineer.

Prior to 1888 a Mexican citizen owned or at least claimed lands in Lower California, some of which the government asserted still to be public lands which had never passed to private ownership. The conflicting claims of this Mexican citizen and his government were finally settled by mutual agreement under which the citizen was to convey to the government all his right, title, and interest in any property in Lower California and receive in exchange a tract of public land in the state of Chihuahua. This agreement was carried out by both parties with all the solemnities of the existing law. In 1906 an American lumber company purchased this contract from the Mexican owner. In 1922 President Obregón issued a decree declaring

the title of the American company null and void on the ground that at the time of the settlement the Mexican citizen in fact had no title to the lands in Lower California and therefore the grant of the lands in Chihuahua in 1888 was without consideration.

All efforts of the owners of these properties to secure redress through judicial or other channels have thus far been unavailing.

"MAIN STRENGTH AND AWKWARDNESS"

Many of the seizures of private lands in Mexico have been made under claim or color of legal sanction; but in many cases seizures have been made or attempted without any pretense of any lawful authority or legal procedure.

In or about 1910 an American citizen purchased a tract of land in the state of San Luis Potosi, and by the investment of a considerable sum of money, as well as by his labors, brought the property to a high state of cultivation. Early in 1924, he was notified that there would be on the following day a meeting of the inhabitants of one of the neighboring towns which he was required to attend. At that meeting, the inhabitants were addressed by someone purporting to be an official, and told that the land was theirs. The owner has since been excluded from the property, for which, however, he has never received any compensation.

In other instances armed bands of agrarians or groups of persons supported by armed forces

have taken possession of properties and dispossessed the rightful owner.

But perhaps the outstanding example of seizure or attempted seizure by "main strength and awkwardness" is the case of the late Mrs. Rosalie Evans. Of the annoyances and harassing to which that brave woman was subjected, culminating finally in her heroic but tragic death, she gives an illuminating and stirring account in her letters to her sister.[6] For the ruthless and wanton spilling of the American blood that coursed through this woman's veins, no one has ever been brought to justice by the Mexican government.

"Agrarian Reform" a Shibboleth

The Mexican government has claimed much for its program of "agrarian reform." It has succeeded in no small measure in its efforts to secure credit for itself and justification for its seizures of private properties by the use of this appealing phrase. In the light of the facts, however, "agrarian reform" has turned out to be a shibboleth—but with many tragic connotations.

One would assume from the fact that "agrarian reform" was one of the slogans of the Madero revolution that the people of Mexico were eager to possess lands of their own. But at about that time American interests which had invested a large sum of money in an irrigation system in the Yaqui Valley in Sonora put on

the market upward of thirty thousand acres of well-irrigated land in small parcels at low prices and on easy terms. Among the purchasers of these lands, nearly every nationality was represented except Mexico.

There are innumerable instances of well-cultivated land being distributed, and the small subdivisions, with the exception of barely enough to grow a little corn for the family, being allowed to revert virtually to wilderness.

Many abuses have been perpetrated in the name of "agrarian reform." Crops in cultivation have been seized with no intention on the part of those taking them to cultivate or occupy the land in the future. Speculators with influence, or otherwise in a position to do so, have caused properties to be seized ostensibly under one or another of the agrarian provisions, but in reality for their own personal benefit. Squatters have been employed to settle on desired lands in order that *ejidos* or commons might be allotted to them, although they were temporary squatters and had no intention of remaining on the property or even in the vicinity after the allotment should have been made. Threats of seizure under the agrarian laws have been made in order to induce owners to sell valuable properties at a fraction of their real value. So far have proceedings of this kind gone in Mexico, under "agrarianism," that there is current throughout the country the following play on words: The Spanish equivalent for

agrarians is *agraristas*, but they, and the exponents of "agrarian program," are popularly referred to as *agarristas*, i.e., "grabbers."

While division and despoliation have been going on under or allegedly under the agrarian laws, such prominent officials as President Obregón, President Calles, the governors of some of the states, and others have become possessed of vast estates.

Despite the claim that "agrarian reform" was to make Mexico a nation of contented and prosperous small-landed proprietors, distressing poverty prevails among the large part of the population, who presumably were to have been beneficiaries of this "reform"; and there has been in recent years an unprecedented tide of emigration from Mexico to the United States.

The attitude of the government toward private property, as indicated by its acts in agrarian matters, has had a decided influence upon foreign capital, depriving Mexico of the capital so seriously needed for the development of her agricultural and other resources. Even Mexican landowners, doubtful of their ability to retain possession and harvest their crops, have in many cases let their lands go uncultivated, and in other cases withdrawn their own investments from Mexico and placed them in other countries.

The result has been such as to cause *Excelsior*, one of the leading newspapers in Mexico City, to state on October 11, 1927: "The

latest reports with respect to the importation of articles which could be produced in Mexico are truly alarming." The editorial goes on to say that in eggs alone imported from the United States into Mexico through one customs house in the month of September there were thirty-four carloads; of lard, fifty-two carloads; of cattle, twenty-three carloads; and of lumber, seventy-three carloads. And there are other figures which are illuminating. In 1902 there were over five million cattle in the country. In 1924 there were barely more than two million. In 1910 Mexico produced eighty-one million bushels of corn. In 1925 she produced sixty-nine million bushels. In 1910 Mexico produced six and one-half million bushels of beans. In 1925, one-half that quantity.

THE INTERNATIONAL ASPECT

Arising out of so-called "agrarian" seizures of one class or another are scores of claims of American citizens, constituting one of the present problems in American-Mexican relations. Upward of five hundred thousand acres of American-owned lands have been seized, for which, as yet, not one of the owners has received any compensation in bonds or cash or otherwise. Early in 1927 the Mexican Ambassador gave the President of the United States a formal and official assurance that, as President Coolidge expressed it in his address before the United Press Association on April 25, "she

does not intend to confiscate property." Nevertheless, some of these seizures and other acts depriving American citizens of the enjoyment of their property rights in Mexico have taken place since that solemn assurance was given.

Some of these lands were owned, it is true, by well-to-do American citizens—if that fact mitigates in any degree the offense which the Mexican government has committed against their legitimate rights. Others of these lands were owned by American corporations, but back of the corporations in some instances were American citizens who had invested practically all they had in these properties. Other owners were American citizens of moderate means who, and whose motives in going to Mexico, may fittingly be described in the words used by President Coolidge in his speech (June, 1927) in Northtownship, Indiana: "Energetic, pioneer spirits . . . . eager to contribute their share and to receive in return the abundant rewards which advancing enterprise can give." Those words President Coolidge applied to the people who had settled the region in which he was then speaking (Indiana); and many of those who went to Mexico went out of that region, were of the same stock, and went in the same spirit as their forebears to whom the President of the United States paid such merited tribute.

At the pre-recognition conferences held in Mexico City in 1923, the foundation was laid

for two claims commissions. These were subsequently established in accordance with the conventions then agreed upon; but each has now, temporarily at least, ceased to function.

The Mexican government neither restores the properties nor evinces any desire to hasten the adjudication and settlement of these claims through arbitration or negotiation. If they were adjudicated, the question would then arise as to the value of the awards against Mexico in view of her declining revenues and annually increasing deficit, as shown by the message of the President to the Mexican Congress, September 1, 1927. Pending some just and proper disposition of these agrarian claims, many American citizens will continue to undergo real hardship as a result of the loss or ruin of their properties.

THE ALIEN LANDHOLDING PHASE

On December 31, 1925, the President of Mexico promulgated, and on January 21, 1926, there was officially published, an act of the Mexican Congress, officially designated as the Organic Law of Fraction I of Article 27 of the Constitution, commonly known as the Alien Land Law.[7] This law, quite distinct from the laws and other dispositions relating to agrarian matters, and from those having to do with oil matters, relates to the conditions under which aliens may hold properties and property rights of certain kinds in certain locations in Mexico.

Fraction I of Article 27 of the constitution, upon which nominally the Alien Land Law is founded, reads as follows:

1. Only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in lands, waters and their appurtenances, or to obtain concessions to develop mines, waters or mineral fuels in the Republic of Mexico. The Nation may grant the same right to foreigners, provided they agree before the Department of Foreign Affairs to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same, under penalty, in case of breach, of forfeiture to the Nation of property so acquired. Within a zone of 100 kilometers from the frontiers, and of 50 kilometers from the sea coast, no foreigner shall under any conditions acquire direct ownership of lands and waters.

It will be noted that "Mexican companies" are among those having the right to acquire ownership in lands and waters and to obtain concessions for developing mines, waters, and mineral fuels in Mexico. It is that part of the constitutional provision with which the Alien Land Law particularly deals. Up to the time of the enactment of this law, a "Mexican company" was, as President Calles stated in his message to Congress in September, 1925, "a company organized in conformity with our [i.e., with Mexican] laws, and which has its domicile in the Republic . . . . although it is composed of foreigners."

An "organic law," such as this is officially designated in its title, is a law intended to put into effect and provide in detail for the enforcement of a provision of the constitution. In the Mexican terminology our Volstead Law would be called an "organic law" of the Eighteenth Amendment to the Constitution. In Mexico, as in the United States, the scope of such a law is fixed by the constitutional provision. The Mexican Alien Land Law, however, restricts to certain Mexican companies rights which the constitution says all Mexican companies enjoy.

Fraction I of Article 27 of the constitution, of which this is nominally the "organic law," says nothing about alien-stock ownership in Mexican companies. The term "Mexican companies" is presumably used in the sense of its accepted and established meaning at the time of the promulgation of the constitution. But it is rather with the composition of "Mexican companies" than with the substantive provisions of the constitution that the Alien Land Law deals.

For example, it lays down in its Article 2 the new requirement that an alien, in order to be a shareholder in a Mexican company "which holds or may acquire ownership in lands, waters and their appurtenances, or concessions for the exploitation of mines, waters or mineral fuels," must (as it may be expressed for purposes of brevity) sign the Calvo clause; that is, agree not to invoke the protection of his

own government. Similarly, in Article 3, the law provides that aliens may not hold more than a minority interest in Mexican companies which possess rural lands for agricultural purposes.

The interests of American and other foreign citizens, acquired in "Mexican companies" prior to the enactment of this law, were acquired in conformity with Mexican laws then in force. This is expressly admitted by the President of Mexico in his message to Congress in September, 1925, when in proposing such a law he gave as the reason for its enactment the fact that foreigners "have the right under discussion" as stockholders in a "Mexican company."

Contrary to an oft-repeated assertion, the constitution in force in Mexico prior to 1917, that is, the constitution of 1857, contained no provisions in any wise prohibiting the acquisition of property rights by foreigners within any distances of the frontiers or seacoasts. The rights acquired by American and other foreign citizens prior to May 1, 1917, in these now "prohibited zones," were acquired in conformity with Mexican laws then in force.

It is only with the properties and rights of American citizens so lawfully acquired, in one case prior to the effective date of the constitution in 1917, and in other cases prior to the enactment of the Alien Land Law, that we are here concerned; for the right of Mexico as a sovereign nation to put such limitations and

restrictions as she may see fit upon the right of aliens to acquire property within her borders in the future is not and cannot be questioned.

The vice of this law from an international standpoint lies in the fact that it requires American and other foreign citizens who had lawfully acquired properties and rights under existing laws to divest themselves of such properties and rights.

In general, previously acquired rights of the kinds comprehended within this law must, if held by an alien individual, be disposed of within his lifetime or by his heirs within approximately five years after his death; and such rights, if held by a foreign corporation, must be disposed of within a fixed term of ten years.

The distinction between past and future acquisitions has been drawn very clearly and definitely by the United States government in its official correspondence with Mexico. As an instance, Secretary of State Kellogg said in his note of January 8, 1926, to the Mexican Minister for Foreign Affairs:

> From the beginning this Government in presenting its views has endeavored to call attention to the vital distinction between future acquisitions of property and the status of property rights legally acquired under laws existing at the time of the acquisition of the property or right. . . . . This Government has been and is now concerned only with property rights in Mexico duly and legally acquired

by American citizens under laws existing at the time of the acquisition.[8]

The full effects of this law will, of course, not be felt until the end or the approach of the end of the fixed periods of five and ten years, respectively, specified therein for the disposal of alien holdings. An immediate effect, however, was a limitation upon the right of alienation. In turn, this involved immediately a loss to the owners of all properties and rights affected by the law through diminution of market value. When the time comes that they must be disposed of, they must be disposed of to Mexican citizens. Any sale of them made in the meantime, of a less forced nature, must be made to Mexican citizens who, of course, are mindful of the limited market fixed by the provisions of this law. The effect of this, even upon present market values, can well be visualized in the light of the experience, already mentioned, of the irrigation company which several years ago advertised and sold upward of thirty thousand acres of irrigated land in the state of Sonora in small parcels, of which not a single Mexican citizen bought a parcel, although nearly every other nationality was represented among the purchasers.

To the protests of the government of the United States that this law in its application to previous lawfully acquired properties and rights is retroactive and confiscatory, the Mexican government has replied, in substance,

merely that this "does not mean that the law was given retroactive effect in its application, since it has to do with an act in the future and not with an act in the past."[9] The future act referred to is, of course, the act which the American or other foreign owner must perform, of divesting himself within the prescribed period of time of rights lawfully acquired in the past. And he is required to perform this act under penalty, if he fails to do so, of having the act performed for him through a forced sale. Under such a definition of retroactivity, no law could be called retroactive, and it seems not inappropriate to characterize the reply of the Mexican government as, at the least, disingenuous.

An interesting side-light is thrown upon the Mexican government's attitude toward foreign owners of properties seized in connection with its "agrarian reform," by certain statements made in the official correspondence relative to one provision of the Alien Land Law. In his memorandum dated December 5, 1925, to the American Ambassador, the Mexican Minister for Foreign Affairs said: "The limitation imposed by the law upon companies possessing rural property for agricultural purposes tends to preclude possible conflicts in the application of the agrarian legislation." Secretary of State Kellogg, in his note dated January 28, 1926, said he did not quite understand the meaning of this statement; to which the Mexican Minis-

ter of Foreign Affairs replied, in his note dated February 12, 1926:

> The observation of the Mexican Government finds its explanation in the fact that when an alien holds 50 per cent or more of the total interest in a corporation of the kind under consideration, it is really he who can dispose of it; because as a rule in corporations decisions are made by majority vote and when under the application of the agrarian laws a case arises, where rights of the corporation are to be expropriated, if these rights pertain in the majority to Mexicans, the matter is settled in strict conformity to the legislation of the country, but if the said majority pertains to an alien, he applies to his government for protection, which gives occasion for possible conflicts of an international nature, and it is clear that if the good relations with another State are to be maintained, it is essential to remove as far as possible any cause of friction.

Thus, the theory of the Mexican government was that, if it should succeed through the Alien Land Law in reducing foreign interests in possible agrarian properties to a minority, the expropriation of the property and the destruction of the remaining foreign interests under the agrarian laws would be simplified, "conflicts of an international nature" avoided, and "good relations . . . . maintained."

THE OIL PHASE

By a curious process of evolution, the issue raised between the governments of the United

States and Mexico regarding American property rights in the latter country has come to be frequently described as a controversy over Mexico's petroleum law. At first, when the issue took on a renewed interest at the time of the passage by the Mexican Congress, in December, 1925, of the Alien Land Law and the Petroleum Law, the issue was described as one relating to Mexico's "oil and land laws." Shortly thereafter the distinction between these two laws seems to have been somewhat lost, and the issue came to be referred to as one relating to Mexico's "oil-land laws." More recently, the existence of laws relating to the rights of American citizens in other classes of property has been further obscured, and the issue has come to be described as one relating to Mexico's "oil laws."

The issue raised by Mexico's legislation regarding the ownership of subsoil deposits of petroleum is as distinct from the issue raised, on the one hand, by the agrarian seizures and the issue raised, on the other hand, by the Alien Land Law, as those two subjects are distinct in themselves.

It may be that the confusion has arisen to some extent by reason of the fact that all of these subjects are treated in a single article of the constitution of Mexico, Article 27. It is certain, also, that back of much that has been said and written on our relations with Mexico over the past few years has been a purposeful design

on the part of the Mexican government to have the controversy between these two countries appear to the American public, and throughout Latin America as well, as one relating solely to a few oil properties. But at the same time, as will be seen as a study is made of the oil phase of the present controversy, the Mexican government, through its not overscrupulous efforts to focus attention upon oil, has given us criteria by which to judge of its general attitude and standards in international affairs.

The Mexican oil controversy dates from the promulgation of the new constitution, the provisions of which, in so far as they related to the matter under consideration, became effective May 1, 1917. Article 27 of that instrument declared the ownership (Span. *dominio directo*) of all deposits of petroleum to be vested in the nation. In order to understand just what that declaration involved, it is necessary to look into the ownership and legal status of petroleum deposits under previous Mexican laws. In doing this it will be well to go back to the status of petroleum under the Spanish régime preceding Mexican independence, for, although the writer has always felt the legal status of petroleum prior to 1884 to be wholly irrelevant to this discussion, one of the oft-repeated arguments of the Mexican government is predicated upon its assertion that petroleum deposits under the Spanish régime belonged to the crown.

STATUS OF PETROLEUM UNDER THE SPANISH RÉGIME

To back up their assertion that the petroleum deposits were, prior to Mexican independence, a part of the royal patrimony, Mexican officials cite various decrees of the Spanish kings. For example, the Ambassador of Mexico to the United States, in an article on the subject, cites decrees dated 1343 and 1387. He correctly quotes from King John's decree of 1387 the substance of that decree: namely, "All mines of gold, silver, lead and other metals whatever in our realms belong to us."[10] But the quotation indicates very clearly in itself that the decree has no bearing upon the ownership of petroleum because it refers solely to "metals," and petroleum is not a metal.

Reference is also made in the same article, although the date is not given, to the decree of 1783 which declared "bitumens and juices of the earth," among other things, to be the property of the crown. This was a royal mining ordinance specially applicable to Mexico (New Spain).

But Mexican officials, in their statements on this subject, have never referred to any of the decrees of the Spanish kings subsequent to that of 1783.

In 1780 the Spanish king, Charles III, had issued a decree relating to coal. The provisions of the decree were based upon the assumption that coal, like metals, belonged to the crown. Thereupon a discussion arose regarding the

crown's right in coal deposits; and in 1789 Charles III issued another decree in which he made the following declaration: "Whereas coal is neither a metal nor a semimetal . . . . these mines belong to the owners of the lands in which they are situated." Then, in 1793, Charles IV issued a decree, stating with reference to coal that the crown would retain the right of taking some of such mines for royal purposes, but "it will not do so except in case of necessity, paying to the owner a fair compensation."

Thus, by decrees subsequent to those cited by Mexican officials, the kings of Spain made a clear classification of those subsoil deposits which did, and those which did not, belong to the crown. The distinction is found in words of the decree of 1789; metals and semimetals constituted parts of the royal patrimony. Petroleum, of course, is in the words of that decree "neither a metal nor a semimetal."

The power retained by the crown in the decree of 1793 was merely the power of eminent domain which is inherent in every sovereign, but which practically every sovereign, including Mexico in its constitution of 1917, has bound itself not to exercise except, to use the words of King Charles IV again, "in case of necessity, paying to the owner a fair compensation."

There is, however, some question whether those decrees issued by the Spanish king subsequently to 1783 modified or superseded, as regards non-metalliferous substances, the one of

that year. Some authorities have contended they did not. Other authorities have contended that they did; and have cited as seemingly sound bases for their contention these facts: that the decree of 1783 was predicated upon the theory that all substances to which it referred were part of the royal patrimony; and that the king clearly declared in the decree of 1789 that non-metalliferous substances were not part of the royal patrimony. The most that can be said on either side of this question is that there is a question. There was so much of a question prior to 1883 that the Mexican constitution was then amended, placing in the federal government authority to issue a mining code which should be uniform and binding throughout the country, and should finally resolve this question in a definite manner.

Mexican laws of 1884, 1892, and 1909

The first law of the Mexican Congress clearly defining the respective rights of the nation and private landowners in subsoil substances was promulgated, under the authority of this constitutional amendment, during the administration of President Manuel Gonzalez in 1884. That statute, in so far as it classified mineral deposits as properties of the nation or of private landowners, was merely declaratory: Article 10 of this statute declared petroleum, along with coal and certain other minerals, to be "of the exclusive ownership of the owner of the soil"

(Span.: *son de la exclusiva propiedad del dueno del suelo*).[11]

The Law of 1884 was superseded in 1892 by another similar mining code which, while it omitted the words of the previous law, "exclusive ownership," used words which could have no other meaning, namely, "The owner of the soil may exploit the following mineral substances freely and without the need of a special concession in any instance."[12] This law was in turn superseded by the Mining Law of 1909, which again declared deposits of mineral fuels to be "of the exclusive ownership of the owner of the soil."[13]

PETROLEUM LAW OF 1901

At the General Conference held at the Institute of Politics at Williamstown, Massachusetts, on August 6, 1927, the counselor of the Mexican Embassy in Washington mentioned a law passed by the Mexican Congress in 1901, and contended that it was an essential part of the pre-constitutional legislation in Mexico bearing upon the present petroleum controversy. He made the assertion that this law required all petroleum operations to be conducted under government concessions, and that the American companies which have failed to comply with the recently enacted petroleum law operated under such concessions, thus acknowledging the nation's rights in petroleum deposits. There is no word with which fittingly

to characterize such assertions except to say that they are untrue. It is, moreover, difficult to escape the conclusion that the counselor of the Mexican Embassy, who presumably, as the title would ordinarily indicate, is a lawyer, and who, in any event, undertook to interpret this law to the members of the Institute of Politics, must have known that the assertions were untrue.

In point of fact, the Petroleum Law of 1901 has no bearing whatever upon the present controversy. It authorizes the federal executive to grant permits for exploration and patents for exploitation of petroleum on public lands, and certain exemptions from taxation, to encourage the development of the industry; and, although it provides that the owners of private lands may receive the benefit of the tax exemption and other features, it is throughout a permissive statute under which no one need take a concession unless he should desire to do so for the purpose of securing the advantages authorized by the law. In point of fact, also, not one of the American companies whose petroleum properties and petroleum rights in Mexico are involved in the present controversy holds, or ever did hold, a concession issued under this law. Two of such companies (and as the term "American companies" is here used it includes both companies organized under the laws of the United States, and companies which are subsidiaries and owned by American interests even

though organized under Mexican law) did make contracts with the Mexican government in 1908 and 1912, respectively, each of which was approved by the Congress of Mexico, each of which subsequent Mexican governments have failed to observe, and in respect to each of which the contracting company now has a large claim pending against the Mexican government arising out of its failure to observe the terms of the contract.

The motive for the passage of this law to give encouragement to an infant industry may readily be deduced from the fact that the Mexican government itself fixes the beginning of petroleum production in Mexico on a commercial basis in the year 1901, the total quantity produced in Mexico that year having been 10,345 barrels.

How American Rights in Controversy Were Acquired

All of the American-owned petroleum properties and petroleum rights involved in the Mexican oil controversy were acquired while one or another of the three mining codes was in force, and in accordance with its provisions. Most of such properties and rights, indeed, according to a recent Mexican government statement, were acquired while the Law of 1909 was in force, that law being one of the two of the series which declared petroleum to be the exclusive property of the owner of the soil.

Whichever one of the three laws happened to be in force at the time of the acquisition of any particular property, it indicated clearly the way, and the only way, in which anyone seeking to acquire petroleum rights could do so. That was by private negotiation with the landowner who either, as under the laws of 1884 and 1909, was expressly acknowledged as the owner of the petroleum deposits, or, as under the Law of 1892, was the only one acknowledged to have the right to exploit the petroleum deposits in his lands.

The American citizens who acquired the petroleum properties and petroleum rights now in controversy proceeded in the manner definitely outlined by those laws. They either purchased lands outright and thereby became, as surface owners, the owners of petroleum deposits, or the possessors of the exclusive right to exploit such deposits, or they made petroleum leases with the Mexican landowners under which they secured the right to develop the petroleum deposits in their lands. That the landowners, regardless of the particular wording of any of those three laws, had a right which they not only could exercise themselves but could transfer to others, was expressly decided by the Mexican Supreme Court in 1921.

These laws of 1884, 1892, and 1909, duly assented to by the Mexican congresses, were held out to the world during a period of thirty-two years, from 1884 to 1917, as proper and

valid laws of the Mexican nation, upon the faith of which foreigners might invest their capital to develop this industry. Investments were made in petroleum lands and leases, in equipment for breaking roads through the jungles and clearing well locations, for drilling machinery, storage tanks, pipelines, and in river barges and ocean tankers for the transportation of the oil in prospect; and through the initiative and energy of Americans and other foreigners, and the use of foreign capital, the industry was firmly established and made to prosper to such an extent that in the year 1916, preceding the promulgation of the new constitution, the quantity of oil produced in Mexico amounted approximately to 40,500,000 barrels.

All assertions to the contrary notwithstanding, every one of the American-owned petroleum properties and petroleum rights now in question was acquired from private Mexican landowners, and not one was obtained under any concession from any Mexican government.

Such was the situation, with large amounts of foreign capital invested in this industry, and petroleum properties and petroleum rights of great value having been privately acquired in accordance with Mexican laws then in force, when suddenly in 1917 a new constitution was promulgated in Mexico, declaring all of these petroleum deposits to belong to the nation.

CONSTITUTION OF 1917

In 1916 Carranza called a Constitutional Convention to meet at Queretaro. Sometime previously there had been some inkling of Carranza's plans with respect to petroleum, causing the Department of State to instruct the American Consul at Queretaro to point out to General Carranza "in unequivocal terms" the dangerous situation which might result from the issuance of any decree of a confiscatory character. According to the Consul's reply to the Department of State, General Carranza informed him that "the Government is not contemplating the issuance of a decree nationalizing the petroleum industry." This statement, the Consul added in his dispatch, "confirms statement to me by Subsecretary Rouaix." Although the word "decree" is used by Carranza, such a statement, if it had come from the head of any other government in the world, would quite properly have been accepted as an assurance on the part of that government that no such step was contemplated either by decree or in any other form. But Carranza, although he did not "decree" nationalization, put through the Constitutional Convention in Queretaro, membership in which was by his orders limited to his known and sworn adherents, a provision for nationalization in a much more formal manner by incorporating the assertion of national ownership in the fundamental law of the land; and, having thus es-

tablished nationalization, did proceed shortly thereafter to issue a series of decrees giving effect to the constitutional provisions. The draftsman of this part of the constitution was the Subsecretary Rouaix mentioned in the dispatch of the United States Consul at Queretaro.

Article 27 of the new constitution, as finally adopted and signed at Queretaro, to become effective so far as the petroleum provisions were concerned on May 1, 1917, declares in the fourth paragraph that

> in the nation is vested direct ownership [Span.: *dominio directo*] of all . . . . petroleum and all hydrocarbons—solid, liquid or gaseous. . . . . The ownership of the nation is inalienable. . . . . Concessions shall be granted by the federal government to private parties.

A great deal of erudition has been wasted in discussions about the real meaning of the words *dominio directo*. In the light of the interpretations which Mexican government agencies —executive, legislative, and judicial—have officially given to these words, there is now at least no occasion for the indulgence in such academic and technical discussions. Indeed, since the middle of 1917, those who have followed this matter have understood fully the meaning which these words, as used in the constitution, were intended to have. In June of that year the Mexican Minister of Foreign Affairs, in a communication to the United States

Ambassador, stated that "the subsoil from which the products are to be secured . . . . does not belong, according to the said law, to the owner of the surface lands by virtue of the nationalization imposed." In July of that year, in connection with the report of a proposed petroleum bill to the Mexican Congress, Pastor Rouaix, then secretary of commerce and industry and the draftsman of Article 27 at the Constitutional Convention, explained the meaning of these words in the following language:

> Private ownership [Span.: *propiedad*] is an assignment [Span.: *cesión*] which the nation makes solely of the right of "dominio" which it holds over lands in favor of any given person, but without thereby losing to itself the prerogatives which correspond to it as proprietor [Span.: *propietaria*].
>
> In treating of the products of the subsoil, the Constituent Congress desired to be still more specific regarding the rights of the nation, and therefore employed the term "dominio directo" by which is clearly expressed the idea that in resources of this class not only does the nation hold the original and absolute ownership, but that the private ownership [Span.: *propiedad privada*] of those resources likewise pertains [Span.: *corresponde*] to the nation.

Any suggestion that these words admitted of any interpretation other than that the Mexican government by this constitutional fiat succeeded to all the rights of foreign private owners has been rejected by all branches of the Mexican government; and, indeed, although

the Supreme Court of Mexico held in 1921 that Article 14 of the new constitution, providing that no law shall be given retroactive effect, must be given "equal obligatory force" with Article 27, the executive and legislative branches of the government have subsequently deliberately thrust aside the opportunity afforded by Article 14 of the constitution and the Supreme Court to interpret Article 27 in a manner that would not be prejudicial to previously acquired private interests.

CARRANZA DECREES

In 1918 Carranza issued his decrees, the purpose of which was to make nationalization effective. The device employed was to require all owners of petroleum properties and petroleum rights to denounce them and accept denouncement titles from the government. Denouncing a property in Mexico means substantially the same as filing a claim on public lands in the United States; and a denouncement title in Mexico emanates from the government and is substantially equivalent to a patent granted on public lands in the United States. The oil companies immediately saw the trap that was being laid for them. Acceptance of a denouncement title which could only be predicated upon national ownership involved necessarily the surrender of the previous private title. To induce the owners of petroleum properties thus to make a voluntary surrender of their rights and

relieve the government of the necessity of making an outright confiscation, the penalty was prescribed that all lands which were not denounced within a certain time would be declared free and open to denouncement by anyone. As the situation was aptly expressed by one of the interested parties at the time, the Carranza decrees gave the owners of oil properties the alternative of committing suicide or being killed.

The American companies refused to fall into the trap. They laid the matter before the Department of State in Washington which, in April, 1918, caused the Mexican government to be advised of "the necessity which may arise to impel it to protect the property of its citizens in Mexico." The companies also took the matter before the Mexican courts in *amparo* suits, most of which are still pending before the Supreme Court of Mexico undecided.

About the middle of 1919 the Mexican government issued a circular prohibiting the drilling of any oil wells without permits from the government and requiring companies in effect to acquiesce in the plan of nationalization as expressed in the Carranza decrees before receiving drilling permits. But the American companies refused to be coerced in this way into a surrender of their previous rights. They undertook drilling without permits. In November, 1919, the Mexican government by military force stopped the drilling of wells without per-

mits and prevented the taking of oil from wells which had already been completed without permits.

Finally, however, after further representations by the Government of the United States and negotiations between the oil companies and the Mexican government, a sort of *modus vivendi* was agreed upon and Carranza issued, in January, 1920, a circular authorizing the granting of provisional drilling permits, with the understanding that neither by the issuance nor acceptance of such permits would either the Mexican government or the oil companies waive any of their rights.

Thus, the Carranza decrees became, in the main, dead letters.

SUPREME COURT DECISIONS

Carranza was overthrown early in 1920 in a movement headed by De la Huerta, Obregón, and Calles, who in that order have since succeeded to the presidency of Mexico. One might perhaps have thought that as a logical consequence of the overthrow and removal of the chief executive of the nation there would be a change in policies; but later developments have shown that it must have been the man, and not his policies, at which the revolution of 1920 was directed. So far as the petroleum matter is concerned, those who overthrew Carranza and succeeded him have proceeded step by step toward the goal at which Carranza him-

self aimed: namely, complete national ownership.

For example, one of the first acts of Obregón when he succeeded to the presidency at the end of 1920 was to have issued to the governors through General Calles, who was then secretary of the interior, an order forbidding the making of any notarial acts or the registration of any documents purporting to transfer petroleum rights, basing the order upon the ground that since all petroleum deposits belonged to the nation, no private party could make any valid transfer of them.

In the early fall of 1921, however, something took place which in a degree relieved the tensity of the situation. The Supreme Court of Mexico rendered its first decision in the oil companies' *amparo* suits, choosing for this decision a case of the Texas Company.

The circumstances under which this decision of the Supreme Court was rendered are interesting. In June, 1921, President Obregón had issued a decree placing a specific export duty on petroleum products in addition to the existing ad valorem production tax. These combined taxes placed such a burden upon the industry that shipments of oil out of Mexico practically ceased during the months of July and August. A committee of oil-company executives went to Mexico to confer with government officials regarding the new tax. Almost simultaneously with the committee's arrival in

Mexico City, announcement was made of the Texas Company decision by the Mexican Supreme Court. That the Court had acted somewhat hurriedly is indicated by the fact that while the decision was announced on August 30, the opinion in the case was not written and filed until September 27, 1921; and when the opinion became available, it was found that it was not as sweeping in its character as the earlier reports had indicated it might be.[14]

The Texas Company case involved, briefly, the following facts: A Mexican, S, was the owner of a certain lot of land, and on April 28, 1917, two days before Article 27 of the new constitution became effective, made a lease granting the petroleum rights to another Mexican, R. The rights so acquired by R were transferred to the Texas Company on September 21, 1917, that is, after Article 27 of the new constitution had become effective. In July, 1919, another Mexican, C, denounced this property under the Carranza decrees of 1918. In September, 1919, the Texas Company filed its suit in *amparo*, the object of which, in substance, was to restrain the government officials from issuing a denouncement title to the Mexican, C.

The court held that Article 14 of the constitution providing that no law shall be given retroactive effect, and Article 27 providing for the nationalization of petroleum, were "precepts which coexist in a Constitution and have an equal obligatory force." It then went on to

state that Article 27 of the constitution cannot be regarded as retroactive "because it does not affect acquired rights." That is one of the two important points in this decision: namely, the holding by the court that Article 27 of the constitution cannot be so applied as to affect "acquired rights."

But then the court proceeded to define "acquired rights"; and its definition constitutes the other important point in this decision.

Citing the previous mining codes of 1884, 1892, and 1909, the court said, "which latter granted the owner of the lands the right freely to explore and exploit oil without the necessity of a permit from any authority." This language of the court is significant, for, while the case arose under the Mining Law of 1909, and that is the law from which the court purported to quote, it in fact used the words contained in the Law of 1892 which was no longer in force, and completely ignored the words "exclusive ownership" contained in the Law of 1909.

Proceeding from this statement of what the Law of 1909 said about the rights of the landowner, the court held that these rights were inchoate rights—incomplete as distinguished from vested rights. Such rights, the court said, could only be converted into acquired rights or vested rights by the performance of some "positive act" showing an intention to reduce such rights to actual enjoyment. It held that the making of the lease for petroleum purposes on

April 28, 1917, between S and R constituted such a "positive act." From that moment, therefore, vested rights were created and R, the purchaser of such vested rights, could thereafter legally transfer them, as he did, to the Texas Company. However, the court said all such positive acts, in order to be effective, must have been performed prior to May 1, 1917, because upon that date the landowner's inchoate right ceased, Article 27 of the constitution in effect revoking his authority in any wise to appropriate the petroleum products in his land.

Accordingly, the court in effect restrained the President of the republic and the Department of Industry, Commerce, and Labor from turning the property over to C in accordance with the Carranza decrees.

The writer said in a statement in October, 1921, after he had received and examined the text of this decision:

> Such, then, is the decision which was heralded as a solemn pronouncement by the highest judicial tribunal of Mexico that would afford protection to all rights, set at rest the fears that Article 27 of the Queretaro Constitution was intended to be retroactive or would be given retroactive effect to the prejudice of acquired rights, give assurance to the world that foreigners interested in Mexico would always find full protection for their properties and rights in the courts of the country, and give such proof that Mexico would never "shame its sovereignty by the confiscation of legitimate rights in private property" as would compel its recognition by the other gov-

ernments of the world. Not only was this the forecast, made during many months, of the decision or decisions which it was expected or promised would be rendered in the petroleum cases; but this very decision has been widely represented as one that settles every point and should accomplish every result involved in the forecast.

Later in 1921 and in the early part of 1922, the Supreme Court rendered four more similar decisions, the five together constituting what in Mexico is termed "jurisprudence," the nearest equivalent to which we have in our language being perhaps "precedent."

The Department of State (Secretary Hughes) on August 10, 1922, gave out a statement with reference to these decisions, in part as follows:

> It is apparent that the application of the principle thus declared must depend upon what is considered to be an "acquired right." . . . . The inference from these decisions is that petroleum properties in process of development before May 1, 1917, are protected from retroactive application of Article 27. These decisions do not, however, effectively deal with the rights of American citizens in lands containing petroleum or other subsoil substances, where the lands were owned prior to May 1, 1917, but had not been developed, or as to which leases or contract rights to prospect for or work petroleum had not been granted before that date. The question as to whether the owners of the land in such a case have protection is yet to be determined by the Mexican Supreme Court. It is understood that there are a

large number of *amparo* proceedings before that Court which involve that question and are still undecided."

However, in spite of the enunciation of the novel doctrine of positive acts which substantially limited the scope of the Texas Company decision, a faithful application and observance of the principle of non-retroactivity established in that decision would have prevented the Mexican oil controversy from reaching such an acute stage as it reached five years later. Unfortunately, in the enactment and promulgation of the new petroleum law in December, 1925, the legislative and executive branches of the Mexican government saw fit to disregard these decisions of their Supreme Court, in so far as they were favorable to the oil companies.

CONFERENCES OF 1923

During the period from 1920 to 1923, the De la Huerta and Obregón governments made determined and persistent efforts to secure recognition by the government of the United States. This recognition they failed to secure during the closing months of the Wilson administration. Shortly after his assumption of the office of secretary of state, Mr. Hughes on June 7, 1921, issued a statement on the Mexican situation in which he said:

The fundamental question which confronts the Government of the United States in considering its relations with Mexico is the safeguarding of property

rights against confiscation. . . . . A confiscatory policy strikes at the foundations of international intercourse. . . . . Accordingly, this Government has proposed a treaty of amity and commerce with Mexico in which Mexico will agree to safeguard the rights of property which attached before the Constitution of 1917 was promulgated. . . . . If Mexico does not contemplate a confiscatory policy, the Government of the United States can conceive of no possible objection to the treaty. . . . . The making of the treaty in proper form will accomplish the recognition of the government that makes it. In short, when it appears that there is a government in Mexico willing to bind itself to the discharge of primary international obligations, concurrently with that act its recognition will take place.

Nevertheless, President Harding, early in 1923, appointed Mr. Charles Beecher Warren, former ambassador to Japan, and Judge John Barton Payne commissioners to go to Mexico and discuss relations between the two countries with two commissioners appointed by the Obregón government. The sessions of the Commission lasted from May 14 to August 15, 1923. Presumably the full report of the discussions at the meetings of this Commission has not been made public, for, while Secretary of State Hughes in his letter of January 15, 1924, to Senator Lodge referred to the minutes as "a voluminous document," the *Proceedings* as made public are contained in a pamphlet of about fifty pages, in which the meetings from May 21 to May 31, those from June 5 to June

29, those from July 2 to July 18, and those from July 23 to July 26 are covered in each instance by a single paragraph.

But the proceedings as made public disclose the fact that at a formal meeting of the Commission held on August 2, 1923, the petroleum question was discussed and the Mexican commissioners made certain declarations, amounting in substance to agreements or promises upon the the part of the Mexican government.

With respect to lands in connection with which "positive acts" were performed prior to May 1, 1917, the commissioners declared it to be the duty of the federal executive under the Mexican constitution to respect and enforce the decisions of the judicial branch of the government. In accordance with such duty, they declared, the executive had respected, and would continue so to do, the principles of the decisions in the Texas Company and four other *amparo* cases. The protection of the Supreme Court extends, so the Mexican commissioners asserted, to all the land or subsoil concerning which any positive acts have been performed.

> The above statement has constituted, and will constitute in the future, the policy of the Mexican government . . . . ; and the Mexican government will grant to the owners, assignees or other persons entitled drilling permits on such lands, subject only to police regulations, sanitary regulations, measures for the public order and the right of the Mexican government to levy general taxes.

With respect to lands in connection with which positive acts had not been performed, the Mexican commissioners declared that

> the Mexican government has granted, and grants, preferential rights to all owners of the surface or persons entitled to exercise their preferential rights . . . . so that whenever those owners of the surface or persons entitled to exercise their preferential rights wish to use or obtain the oil in the subsoil, the Mexican government will permit them to do so.

When, however, the Secretary of State of the United States pointed out in his note of January 28, 1926, that the new petroleum law did not seem to be in harmony with the Supreme Court decisions, the Mexican Minister of Foreign Affairs made the following equivocal reply:

> The decisions of the Court cannot be either modified or altered in any manner either by the Executive or by any other authority . . . . although it is proper to state that the decisions of the Court have not the scope of laws nor can they signify that the legislative power loses its ability to issue such laws as it may deem expedient, and that executive action is necessarily limited by the contents of the laws themselves.

And when the Secretary of State raised with the Mexican government the point that the petroleum law of 1925 provided for no "preferential rights," the Mexican Minister replied, in effect, that the assurance given by the Mexican commissioners was a statement on behalf

of the then "present executive," not binding upon his successor or the Mexican government.

AGREEMENT OF 1924

As a matter of fact, neither the decisions of the Supreme Court nor the understandings arrived at during the pre-recognition conferences in 1923 seemed to have settled anything. The situation in which American oil producers found themselves was changing, if at all, from bad to worse. In those circumstances, another committee representing the American oil producers went to Mexico City in the fall of 1924 and entered into discussions with Mexican officials. The result of those discussions was announced by the Mexican government itself in the following words:

> An agreement has been reached on the fundamental points in the longstanding controversy between the oil companies and the Government, harmonizing for mutual benefit the interests of the companies and rights of the Government and establishing, according to the belief of both parties, a basis for the future development of the Mexican oil industry. The basis reached must naturally be submitted to the President of the Republic and the oil companies.[15]

The agreement was submitted to the then president of the republic, General Obregón, approved by him, and the oil committee so officially advised. It was also submitted to the oil companies and approved by them, as the

Mexican government was formally advised. President Calles took office the first of December, 1924, and the agreement was also submitted to him and the oil companies advised of his approval.

No effort was ever made, however, by the Mexican government to carry out the terms of the agreement, and it was wholly ignored in the drafting, enactment, and promulgation of the new petroleum law a year later.

PETROLEUM LAW OF 1925

This new petroleum law was passed by the Congress and promulgated by President Calles in December, 1925. With its provisions, in so far as they relate to post-constitutional properties and rights, that is, properties and rights not dating back prior to May 1, 1917, we are not concerned. The only petroleum properties and petroleum rights involved in the present international controversy are those in which the interest originated prior to the effective date of the new constitution. We are, therefore—for present purposes, interested only in one omission from, and one provision of, the law.

The omission consists in the failure of the law to recognize to any extent whatever the petroleum rights of American citizens in properties acquired prior to May 1, 1917, but in connection with which no positive act was performed prior to that date. The law does not even recognize the preferential right which the

Mexican commissioners in 1923 stated the Mexican government "has granted and grants" to the owners of such properties.

The provision of the law of principal interest is that relating to properties in respect to which positive acts were performed prior to 1917 (Articles 14 and 15 of the law). Only two positive acts are recognized: the making of a lease for petroleum purposes or the actual beginning of petroleum operations prior to May 1, 1917; although at the meeting of the commissioners on August 2, 1923, the Mexican commissioners declared that the performance of any other positive act or manifesting an intention to exercise rights to the oil under the surface would bring the case within the "principles" of the Texas Company decision.

But the point of greatest importance is that the law does not recognize "vested rights" and exempt them from the operation of Article 27 of the constitution even in cases in which the positive acts specified in the law were performed. Even in those cases, the owner of the previous property or right was required by the terms of the law to apply on or before December 31, 1926, for a concession from the government. It is true that Article 14 of the law stated that those previous rights were to be "confirmed," but it required that they be "confirmed" by concessions issued by the government. In view of this requirement, the word "confirm" is a misnomer. To confirm a previ-

ous right is to recognize that previous right as still existing. A concession can only be issued on the theory that the government or nation is the owner. Obviously, the ownership cannot be vested at the same time both in the previous private owner and in the government or nation. Therefore, "confirm" and "concession" are contradictory terms, and no owner of such a previous right could get that right "confirmed" without acknowledging ownership to be in the government or nation; and, conversely, the government or nation could not "confirm" the preexisting title of the private owner, and be itself the owner.

THE SO-CALLED "REBELLIOUS" COMPANIES

Article 15 of the law prescribed as the penalty for failure to make application on or before December 31, 1926, for so-called "confirmation," the forfeiture of all previous rights, or, as it is euphemistically put in the law, those failing to make such application will be considered as having renounced their rights. But notwithstanding this threat of forfeiture, by which it was probably hoped the companies would be coerced into the voluntary surrender of their previous rights, the principal American and other foreign companies again declined to take the "suicide" route. These companies have since been given by the Mexican government the appellation "rebellious" companies.

But although the law was passed and pro-

mulgated in December, 1925, they did not reach their decision to be "rebellious" until the night of December 27, 1926—four days before the expiration of the time within which they were obliged to reach their decision and get it communicated to their respective representatives in Mexico. In the meantime they spent months in considering the matter in the light of all the information it was possible for them to get. They sought from the Mexican government the exact form of "confirmatory concession" it proposed to issue. Being able to obtain no satisfactory reply, they asked for a prorogation of the period specified in the law within which the decision must be reached. This was refused. A large committee of oil executives and other representatives also went to Mexico City in the spring of 1926, to discuss various phases of the matter, and particularly the proposed executive regulations to be issued under the law, with officials of the Mexican government. President Calles in his message to the Mexican Congress in September, 1926, and the Mexican Minister of Foreign Affairs in one of the official notes to the government of the United States, each refers to the opportunity accorded to the oil people to discuss the regulations before they were issued, but each fails to state that practically every suggestion of real importance made by the oil representatives was rejected by the Mexican officials. The executive regulations could not properly, of course, change the law. There

were, however, some provisions of the law which the executive could, within the proper scope of his authority, interpret in his regulations either more or less harshly. The regulations as finally issued, instead of mitigating to any extent the rigors of the law, provided for its enforcement in all its severity.

Two or three of the companies which later decided not to surrender their previous titles in exchange for government concessions had already, during the summer of 1926, filed applications for "confirmatory concessions" upon some of their properties, notably, the Aguila Company, the principal British interest in Mexico, the Transcontinental Company, subsidiary of the Standard Oil Company of New Jersey, and the Corona Company, subsidiary of the Royal Dutch Shell. Each of these companies, however, when its decision was finally made on December 27, 1926, decided that it would not apply for "confirmatory concessions" on any of its other properties and would not accept concessions in exchange for its previous rights in the properties covered by its earlier applications. The Mexican government shortly after January 1, 1927, became definitely aware of this decision of these companies, and this decision, in the case of two of them, the Transcontinental and Corona, was later confirmed by the rejection and return of concessions issued and proffered to them by the Mexican government. The Mexican government was notified in each

case, upon the return of the concession, that the company reserved and elected to stand upon its previous rights.

Nevertheless, the Mexican government, in figures which it has given out in an effort to minimize the importance of the so-called "rebellious" companies, lists these three companies as companies which have complied with the terms of the law. On that basis it has given out statements fixing the proportion of oil produced by the "rebellious" companies as 44.6 per cent of the total.[16] In point of fact, when the names of the rebellious companies are checked in the Mexican government's official list of petroleum-producers and the quantity produced by each is taken from that official statement of the Mexican government, their combined production works out at over 70 per cent of the total, whether the period taken be the year 1926 or the last five years. The discrepancy between the Mexican-government figures and those of the oil companies has a very easy and definite explanation. The percentages of the total production assigned to the Aguila, Corona, and Transcontinental interests in the official figures of the Mexican government for 1926 are as follows:

	Per Cent
Aguila	10.7
Corona	7.2
Transcontinental	7.9
Total	25.8

When this total is added to the Mexican government's figure, even omitting the small production of still other companies classed in the Mexican government's statement as complying companies, the result is completely corroborative of the oil companies' figure.

	Per Cent
Mexican government's figure	44.6
Total as above	25.8
Oil companies' figure	70.4

THE PLIGHT OF AMERICAN CORPORATIONS

Some of the petroleum properties and petroleum rights involved in the present controversy are held and have since prior to May 1, 1917, been held by American corporations. Under the provisions of Article 27 of the Mexican constitution, concessions for the exploitation of mineral fuels may not be granted to foreign corporations, and foreign corporations may not hold such concessions. Such American corporations, therefore, being from the standpoint of Mexico foreign corporations, could not be granted or hold concessions covering properties and rights previously held by them. Yet by the terms of the law, they were required to exchange their previous titles for such concessions. Even if otherwise they should have been willing to exchange their previous titles for government concessions, these American corporations could not have done so. Thus, under

penalty of forfeiting their previous rights, they were required to do an impossiblity and to accept a document which would have been a complete legal nullity.

Reasons for Attitude of Companies

The companies of the so-called "rebellious" group arrived at their final decision after months of intensive study and in the exercise of the soundest business judgment which they could bring to bear upon the subject. They had no desire to create international complications or to make any difficulties for the Mexican government or the Mexican people. What they desired, and the only thing they desired, was the opportunity to proceed to carry on the enterprise in which they are interested, the production of petroleum; and to be permitted to retain for that purpose petroleum properties and petroleum rights which they had lawfully acquired and in connection with which they had made large investments.

Petroleum production does not maintain itself. Even to keep it from diminishing, vast expenditures must be made every day, in the building of roads and other facilities, geological work, and the drilling of wells, an increasingly large proportion of which have proved wholly unproductive in Mexico during recent years. Moreover, at the time the companies reached their decision, production had fallen off to such an extent and the industry was in such a con-

dition generally, wholly as a result of the policies pursued by the Mexican governments during the past decade, that further capital investments would have been required to bring the industry back to a prosperous condition. One thing the companies were obliged to consider in 1926 was, therefore, upon what basis and under what circumstances they would be justified in making a large new capital investment in Mexico.

It would, of course, be to no purpose to attempt to detail all of the points considered by the companies in arriving at their decision. It will suffice for present purposes to mention three major ones.

In the first place, those companies which happen to be American corporations, if they had had no other reasons, had an absolutely compelling one in the fact that because of the constitutional inhibition they could not exchange their previous titles for valid government concessions.

In the second place, none of the companies could feel certain that if they could and did receive government concessions they would thereby be assured for any definite length of time of an opportunity to make use of their properties. If any government in the face of well-established international principles can successfully pass the first hurdle of transforming vested property rights into mere licenses from the government, then there would be no real obstacle

in its way if it desired to circumscribe and limit the rights granted under such licenses until it had wrought their complete destruction. The companies, moreover, did not in this connection indulge solely in speculation. They had seen petroleum properties during the Carranza régime assigned to others under denouncement titles issued by the government. They had seen how formal contracts which two of them had made with the Mexican government, one during the Díaz régime and one subsequent to the Díaz régime, were disregarded as if no such solemn agreement existed. They were aware that in the state of Tamaulipas and other states during the Carranza régime agreements validly made by state governments for the exemption from taxation for certain periods of years of new capital invested in industries of those states had in effect been nullified by orders of the federal government. They knew also that the President of Mexico, as governor of the state of Sonora a few years before, had by decree arbitrarily canceled somewhat similar agreements. They realized, furthermore, that many concessions and contracts of other natures made by preceding Mexican governments had been declared void by members of the group which have held the presidency since Carranza's death.

They realized that there were still pending before the courts of Mexico suits filed by them several years before, upon which the Supreme

Court had not acted. They had witnessed the pushing aside and disregard of the decisions which the Supreme Court of Mexico did hand down in 1921 and 1922. They had read the recent official correspondence between the governments of the United States and Mexico, in which the latter had substantially repudiated assurances given to the United States in 1923. They had seen the agreement which they themselves had made with Mexican government officials in 1924 lightly ignored.

On the other hand, they were, under the recognized principles of international law, entitled to retain and continue to enjoy under their former titles the properties and rights which they had lawfully acquired.

In the third place, there is a principle and a world-question involved in this matter which is of tremendous importance, not only to the companies with their far-flung interests in the world's petroleum deposits, but also to the United States in relation to its economic future and its national defense. Fundamentally, there is involved in this controversy a conflict between two economic systems: One is based on respect for private property; the other is the direct antithesis. Within the confines of their own borders, states and nations may with limited risk disregard the rights of private property. But when this is extended to foreign intercourse, it is practically destructive of such intercourse. As this is being written, a statement

comes out showing the tremendous prosperity of the United States in 1926 and indicating that its people in that year enjoyed the highest standard of living in their history. It would be interesting to analyze the bases of this prosperity and to see what part our foreign trade has played in it; to undertake to determine what the economic condition of this country would have been if it had had no foreign trade in 1926; or even to consider what the effect would have been if in the year 1926 the investments of United States citizens generally throughout the world had been threatened, and confidence in the security of such investments destroyed.

Developments since January 1, 1927

The period within which so-called "confirmatory" concessions could be applied for under the terms of the law expired at midnight, December 31, 1926. The status of the various owners of petroleum properties and petroleum rights in Mexico, dating from before May 1, 1917, was thereupon definitely fixed under the law. Those companies which decided that they would not voluntarily exchange their previous titles for government concessions were, in the words of the law, considered as having renounced their previous rights. Within the time prescribed in the Mexican code of procedure, they filed *amparo* suits in the Mexican courts.

Shortly after January 1, 1927, the govern-

ment of Mexico, by administrative act, made a wholesale cancellation of drilling permits previously granted. The number of permits so canceled ran into the hundreds. In that case, likewise, the companies resorted to the Mexican courts, and all but a few of such drilling permits were in effect reinstated. But, although some 265 drilling permits were in effect restored by court action, those were only sufficient to keep the drilling rigs and drilling machinery of the companies operating for a comparatively few weeks at most.

The companies went ahead after January 1, 1927, currently filing applications for further drilling permits in the regular routine conduct of their business. Months passed with no action whatever upon these applications. Finally, after the companies had made repeated efforts to secure action, they were advised that the drilling permits applied for by them could not be issued because they had failed to comply with the law by making application for "confirmatory" concessions. And in June and July, some of the companies, involving at least three of the principal ones—the Gulf Company, the Mexican Petroleum Company, and the Transcontinental Company—received notices to the effect that as a consequence of their not having asked for "confirmation" of their rights in accordance with the terms of Article 14 of the Petroleum Law, their rights in the lands were considered as renounced.

Thus the Mexican government proceeded, step by step, in preventing the companies from undertaking any new work upon their properties, and, finally, in the case of several of them, declaring that they had forfeited their rights.

During the first half of 1927 there were many indications and, indeed, intimations that the Mexican government was inclined to yield on the petroleum question. The persistent attacks made during that period upon Secretary of State Kellogg and Ambassador Sheffield suggested, however, that the Mexican government desired to see one of them retire in order that its change of attitude on the oil question might seem more gracious than compulsory. Reports were frequent that the Supreme Court of Mexico would render a decision upholding the contentions of the oil companies.

During the summer, Ambassador Sheffield retired and Mr. Dwight W. Morrow was appointed as his successor.

A few weeks after the arrival of Ambassador Morrow in Mexico City, the Supreme Court, on November 17, 1927, announced its decision in the *amparo* case of the Mexican Petroleum Company, a corporation organized under the laws of California. Quite in contrast with the procedure followed by the court at the time of its announcement of the decision in the Texas Company case in 1921, the full text of the opinion in the Mexican Petroleum Company

case had been prepared before the convening of the court and was made public immediately after the session. Study of the opinion revealed that it had been carefully drafted.

This was a suit of *amparo* brought by the Mexican Petroleum Company against the act of the government in canceling three drilling permits on the ground that the company, having failed to apply for confirmatory concessions on or before December 31, 1926, had thereby "renounced" its petroleum rights in the properties.

Several important questions, some of them going to the root of the petroleum controversy, were raised by the company in this case.

The company raised the point that under the Petroleum Law it was deprived of its previous oil rights in lands in connection with which no positive acts had been performed prior to May 1, 1917. The court upon this point seems to have affirmed the doctrine of positive acts. It stated in the fourth paragraph of its opinion, that the company's rights should be confirmed "provided the requirements laid down by fractions 1 and 2 of Article 14 of the said law [that is, the articles defining positive acts] . . . . are complied with."

The company also raised the point that under Article 4 of the law, the wording of which substantially followed the wording of the constitution, it, as a foreign corporation, could not receive or hold a concession for the exploitation

of petroleum. The court in its opinion entirely ignored this point.

The company contended that its petroleum rights were derived from the titles it secured prior to May 1, 1917, and that it could not be compelled to "derive" its rights from a future concession from the government. The court did not directly answer this contention. It did say that "the rights of the complainant company are not at all affected by a confirmation which does not modify them but which recognizes them"; but it did not say what would constitute such a confirmation. It stated that a procedure requiring confirmation of rights, in order that the government might have a record of the rights claimed, was proper; but it nowhere in its opinion used the word "concession" in connection with confirmation, or held or suggested that the government could properly require the company to take out a concession covering its previous rights. Of course, to a true confirmation of previous rights which, in the words of the Supreme Court, "does not modify them but which recognizes them," the companies could have no objection; and if such a confirmation were provided under the ordinary police powers of Mexico, instead of in a law purporting to regulate the nation's *dominio directo* over all subsoil deposits, the position of the companies under the law would be much more free from doubt, and the real intentions and purposes of the government would be much clearer.

Finally, the company raised the point that the limitation of its petroleum rights to a period not exceeding fifty years, and the requirement that concessions for such limited period should be applied for under penalty of forfeiture, amounted in substance to a confiscation of the company's rights. Upon this point the court held that in the case of properties held in fee, such as those involved in the suit, the limitation to fifty years was an improper one and violated the company's constitutional rights. It further held that inasmuch as the law in this respect imposed an improper requirement upon the company, the company had forfeited none of its rights by failure to comply. There could be no forfeiture, the court intimated, until after the company had failed to do something which it could properly be required to do.

The sole point actually decided in favor of the company in this case was, therefore, that the law could not limit to fifty years petroleum rights held under fee titles.

There was nothing, however, in the opinion to indicate that the requirement of the law might not be proper with respect to petroleum rights under leases having in themselves a duration of less than fifty years; and, of course, nothing inconsistent with the theory that the holders of such rights had, by failing to apply for confirmatory concessions, "renounced" their rights.

Early in December, 1927, President Calles

submitted to the Mexican Congress amendments of the Petroleum Law designed to bring it into line with the decision of the Supreme Court. These amendments were promptly passed by the Congress and promulgated on January 10, 1928. The only effect of these amendments was to bring the law in line with the decision of the Supreme Court by providing that confirmation, when made in favor of the surface or fee owner, would be "granted" (Spanish—*otorgarán*) "without limitation as to time," and "for the terms stipulated in the contracts" when made in favor of holders of petroleum rights under petroleum leases or other contracts made by the surface-owner.

Like the original law, the amendments require that applications for confirmation of rights be made within one year from the day following the publication of the amendments (i.e., on or before January 11, 1929) under penalty that "those rights shall be considered as renounced."

On the occasion of each one of the five outstanding developments in the oil controversy—at the time of the announcement of the decision in the Texas Company *amparo* case in 1921, at the close of the conferences known as the Bucareli conferences in Mexico City in 1923, when the agreement was reached between the Mexican government and the oil companies at the end of 1924, at the time the decision of the Supreme Court in the Mexican Petroleum Com-

pany case was announced on November 17, 1927, and upon the promulgation of the amendments to the Petroleum Law on January 10, 1928—the public was advised through the press that the Mexican oil controversy had been settled. Nevertheless, the companies whose petroleum rights have been involved in this controversy are still faced with the fact that, as the decisions of the Mexican Supreme Court and the law now stand, no petroleum rights whatever are recognized in lands in connection with which no positive acts were performed prior to May 1, 1917; and with the necessity of determining by January 11, 1929, whether they shall apply for confirmatory concessions from the government covering their rights in lands in connection with which positive acts were performed prior to May 1, 1917.

Article 14 of the Petroleum Law as amended provides that rights on lands in connection with which positive acts were performed shall be confirmed through the "issuance" (Spanish—*expedición*) of *confirmatory* concessions—differing from Article 14 of the original law in that it was there provided that such rights should be confirmed through "concessions" "granted" (Spanish—*otorgadas*) under the provisions of the law. However, in the same amended Article 14 the law says that these confirmations will be "granted" (Spanish—*otorgarán*). Largely the question comes down to one—and in this foreign corporations are particularly concerned—

as to whether the law provides for a true confirmation or the granting of a concession in place of former private titles.

With respect to lands in connection with which no positive acts were performed prior to May 1, 1917, the position of the companies under this law may with interest be compared with their position under the Carranza decrees of 1918, which both they and the government of the United States strenuously opposed. The Carranza decrees made no distinction between lands in which positive acts had been performed and lands in which positive acts had not been performed. So far as can be determined from the text of the decrees, the companies might at that time have obtained denouncement titles from the government (which are very similar to concessions from the government), covering not only their rights in "positive act" lands but also the rights which they claimed in lands where no positive acts had been performed. (See Appendix, I.)

Economic Aspects

Production of petroleum in Mexico reached its maximum in 1921, when nearly one hundred and ninety-five million barrels were produced. Production has since declined steadily until in 1927 it amounted to less than sixty-five million barrels. This means a falling off since 1921 of about 67 per cent.

In the meantime, the number of persons

employed in the industry in Mexico has declined at an even more rapid rate. In 1921 there were employed in the industry in Mexico approximately 48,000. In 1927 the number had fallen to approximately 7,500. This means a decline of about 85 per cent. The comfortable homes of thousands of these employees have been broken up, and they have either been sent by the government or made their way themselves to other parts of the country in search of a livelihood; and many of them have probably found their way to the United States, accounting in a measure for the recent great increase in the immigration into this country from Mexico.

In 1921 the revenue of the government from oil export and production taxes alone amounted to close to thirty-two million dollars, United States currency. In the first eight months of 1927 it amounted to about seven and one-quarter millions, or at the rate of about eleven million dollars annually. In his message to Congress on September 1, 1927, the President of Mexico estimated the deficit in revenues as compared with necessary expenditures, after emphasizing all of the economies necessitated by decreasing revenues, at something like eighteen million dollars, United States currency.

THE DIPLOMATIC PHASE

In order to secure a proper understanding of the diplomatic phase of our relations with

Mexico, one should study the minutes of the meetings of the commissioners of the United States and Mexico in Mexico City during the summer of 1923[17] and the recent diplomatic correspondence between the two governments as released by the Department of State in two instalments on April 8 and November 24, 1926.[18]

It is possible, however, briefly to summarize the principal points involved in our present diplomatic relations with Mexico. In the last analysis, every point of controversy arises from the Mexican government's disregard of the lives and properties of American citizens, which, as the Robinson Resolution, passed by the United States Senate declares, it is the duty of this government to protect. "This duty," the Robinson Resolution says, "and the right of every government to discharge it, are recognized in international law."

It is true that the Mexican government seemed likely for a time to add further complications to our already disturbed relations, by its attitude in respect to the situation in Nicaragua. But, fortunately, our government dealt with that situation in time and in a manner which seems to have eliminated the possibility of any serious complications with Mexico in connection with Nicaraguan affairs. It is true, also, that in Mexico center many of the activities of persons and organizations seeking to misrepresent the attitude of the United States throughout Latin America. Even Mex-

icans in the United States, receiving compensation from Mexican-government sources, have participated in these attacks upon "Yankee imperialism." This, however, like the Nicaraguan matter, is one with which the United States can deal in other ways and need not be considered as involved in present diplomatic affairs.

The principal points may be stated in the language of the President of the United States, to the Press Associations at the Hotel Biltmore, April 25, 1927:

> FIRST.—We have had claims against that country running over a long series of years, growing out of the death of many of our citizens and the loss of their property, running into hundreds of millions of dollars.

For the adjudication of such claims there were negotiated in connection with the recognition of the Obregón government in 1923 two claims conventions. In due course the members of the claims commissions were appointed and undertook the work of hearing these claims. Each of the commissions consists of three members: one appointed by the United States; one appointed by the Mexican government; and one selected by mutual agreement between the two governments, or if they cannot agree, by the president of the Permanent Administrative Council of the Permanent Court of Arbitration (at The Hague), who is commonly referred to

as the "neutral" member or umpire. Each of these commissions now lacks a neutral member, and neither commission is functioning. The re-establishment of these commissions or the settlement of these claims is one of the important matters requiring some disposition. (See Appendix, II.)

Second.—Agricultural lands have apparently been seized from time to time, for which no compensation has as yet been made.

To get the properties of American citizens already seized restored to their owners or properly compensated for, and to prevent the continuance of such seizures, is another of the important matters to which our government must give its prompt attention if it is, with any practical benefit to its citizens, to discharge its duty toward them.

Third.—Soon after President Calles came into power, he and the Mexican Congress proposed laws and regulations which we deemed threatened confiscation of American property. To prevent the appearance of acquiescence we so notified Mexico prior to the passage of such laws. Nevertheless, they were passed.

These laws and regulations were, of course, the Alien Land Law, the Petroleum Law, and the executive regulations issued in connection with them, respectively. Around them and their provisions all the diplomatic correspondence recently made public is centered. The

Mexican government, in spite of our government's protests and representations, has taken no backward step. Our government, on its part, notified the government of Mexico that it

> expects the Mexican government not to take any action under the laws in question and the regulations issued in pursuance thereto which would operate either directly or indirectly to deprive American citizens of the full ownership, use and enjoyment of their said properties and property rights.[19]

Notwithstanding this clear declaration of the attitude of the government of the United States, the Mexican government has since done many things to deprive American citizens of "ownership, use and enjoyment of their said properties and property rights." In some instances it has, by its acts or declarations, deprived them fully of such ownership, use, and enjoyment; in other cases it has interfered with such "full ownership, use and enjoyment" by depriving American citizens in part of their properties and property rights.

OUR POLICY AND RELATIONS IN THE FUTURE

He would be a bold writer indeed who dared make any specific prophecy regarding the precise manner or time of the settlement of our present controversies with Mexico, or ventured to predict the course of our future relations with that country, or undertook to state what the future has in store for its unfortunate people. Back of us, however, lie some experiences, and

there are accessible to us some facts, from which certain general conclusions may reasonably be drawn.

Within the past decade and a half, we have forced Victoriano Huerta out of the presidency; we have chosen between Carranza and Villa with the result that the former, instead of the latter, became president of Mexico; in the De la Huerta revolution of 1923–24 we gave our material and moral support to Obregón—enabling him to suppress the De la Huerta revolution which had assumed such formidable proportions as to threaten his overthrow.[20] We have maintained an embargo upon the shipment of arms into Mexico, which, to judge from the campaign waged in this country against its removal, has constituted an important safeguard of the Calles régime. In large part the agitation carried on in January, 1927, ostensibly in favor of an arbitration of the Mexican difficulties, was in reality for the purpose of preventing the lifting of the arms embargo which the Mexican government seems to have considered as at least a possibility, and regarding which it was much concerned because of the disturbed conditions then prevailing in the country. Many people who took part in that agitation knew and acknowledged that the suggestion for arbitration was not put forth for the purpose of averting any war which any of them had any idea was either imminent or even a remote probability. We have continued our

recognition of the Calles government at a time when President Calles admitted that its withdrawal would "frustrate the aims of your [his] Government and provoke counter-revolution in Mexico."[21] From these facts the conclusion may reasonably be drawn that the government of the United States can, should it so desire, exert a powerful influence upon the trend of affairs in Mexico; and particularly upon the personal fortunes of those aspiring to power in that country, which, of course, in the last analysis, is the thing closest to their hearts.

We have recognized governments in Mexico upon the basis of assurances or promises that have proved illusory. From such experiences it seems both fair and wise to conclude that no advance is made toward the settlement of our problems with Mexico by the receipt or reiteration of mere assurances or promises. This might not always, of course, be true, but it seems to be a sound conclusion so far as the Carranza-Obregón-Calles group is concerned.[22]

We have made representations to the Mexican governments that have been met with "equivocation, evasion and mental reservations." It is difficult to study the official correspondence of the last few years, and to view the acts of the Mexican government since the close of that correspondence, without reaching the conclusion that protests and representations, alone, are likely to prove futile. In his address before the United Press Association,

April 25, 1927, the President of the United States said we "closed" the correspondence. Apparently, the government of the United States had come to realize the possible futility of mere protests and representations, for it "closed" the correspondence consisting largely of such; but "closed" it, however, with a very definite warning to the Mexican government of "the extremely critical situation affecting the relations between the two countries which would inevitably be created," and that this government "expects the Mexican government not to take any action under the laws in question and the regulations issued in pursuance thereof which would operate either directly or indirectly to deprive American citizens of the full ownership, use and enjoyment of their said properties and property rights."[23]

Our citizens affected by the legislative and other acts of the Mexican government have filed suits in the Mexican courts. Many of these cases filed as far back as 1918–19 still remain on the docket of the Supreme Court, undecided.

We have sent competent ambassadors to Mexico; and in 1923 a special commission. But, however able any such representatives have been, they have been wholly incapable merely through any appeal to fairness or justice or reason to accomplish anything toward a real settlement of the pending controversies. From these experiences we may reasonably conclude that no ambassador, merely through the force

of his logic or personality, is likely to accomplish any definite, final, and satisfactory solution of these matters. No ambassador needs any knowledge of psychology to acquiesce in the plans of the Mexican government with respect to the properties and property rights of American citizens; while an ambassador who acquiesced in such plans would be hailed by the Mexican government as most expert upon Mexican psychology and with the deepest human understanding of Mexico and her problems. On the other hand, however, no knowledge of psychology and no amount of ability would enable any ambassador, alone, to induce the Mexican officials to release their hold upon anything belonging to an American citizen which they covet. Yet, American ambassadors who have labored hard and have shown extreme patience under great provocation, but who, nevertheless, refused to lose sight of the fact that they were the ambassadors of the American government and its people, have been subjected to criticism as if their failures immediately to adjust all pending controversies were attributable solely to their lack of knowledge of Mexican psychology. Perhaps comments of this nature in this country reached their point of final absurdity in remarks made in February, 1927, by Rev. Dr. Hubert C. Herring, leader of the so-called "Good Will Mission" which was in Mexico for a few days, about a month before. He said: "In order to

understand Mexico there must be something of the poet in one. . . . . Mr. Sheffield is utterly incapable of understanding Mexico because he is a lawyer . . . . he has not the soul of a poet."[24] It is evident from recent occurrences in Mexico, however, that when it comes to dealing with his own fellow-citizens, whom he perhaps understands as well as anyone, President Calles himself does not do so in terms of poetry.

The chief slogan of the so-called Mexican "revolution" has been "Effective Suffrage—No Re-election." There, of course, has not existed any effective suffrage in Mexico, at least so far as the presidency has been concerned. Regardless of any appearances of free or effective suffrage, only that person has been elected whose election was foreordained. It is an interesting fact, also, that scarcely an aspirant or candidate for the presidency in the past decade, other than those who elections were so foreordained, is now alive. The provision against re-election has recently been eliminated from the constitution by an amendment to permit President Obregón to return to the presidency as successor to the present incumbent.

Probably more important to the people of Mexico, however, are the economic conditions in the country. Production of necessary foodstuffs has declined; business is largely at a standstill; real distress is widely prevalent throughout the country; the government revenues are on the decline; and the confidence so

essential to economic rehabilitation is lacking. The situation has been described by one of the leading newspapers in Mexico City in the following words:

> What we lack are moderate laws and firm guarantees for work, security for investments and a social equilibrium; and what we have in excess are radical laws and fantastic doctrines, social demoralization provoked by political deception, uncertainty regarding property, wages, conditions of life and education and, above all, great lies advanced as gospel and great errors disguised as principles of redemption.[25]

Apparently, therefore, as a result of the policies of the Mexican government alone, or of the policy of the government of the United States with respect to Mexican affairs, or of both, matters have during the past decade and a half developed unfavorably both for us and for the Mexican people. And in the meantime economic theories which "strike at the very root of the system of property rights which lies at the basis of all civilized society" have gained a foothold in Mexico, whence there is spread communist and other radical propaganda, together with attacks upon the alleged "imperialism" and other shortcomings of the United States, throughout Latin America.

A short time ago the writer was asked what the Americans whose properties and property rights in Mexico are involved in the Mexican controversies want of the Mexican government.

The writer replied that the Mexican government knew what they wanted; they wanted merely to be left in the enjoyment of their lawfully acquired properties and property rights. But the other person asked the writer if he could not state a brief formula which could be followed by the Mexican government; and the writer suggested this: "Let the Mexican government do that which is to the best interests of the Mexican people in the long run."

Although the writer gave expression to that formula on the spur of the moment, he submits it as one which will bear every test, and as one, which if consistently followed by both governments, would put an end to international discord between the two countries, bring peace and prosperity to the Mexican people, and cause Mexico, in many respects the treasure land and wonderland of the world, to "blossom as the rose."

Unfortunately, there are no present signs seeming to justify any hope that the Mexican government is likely of its "own free will and accord" to adopt any such simple program.

Unfortunately, also, so long as the Mexican situation generally continues to be what it has been during the past fifteen years, not only will there remain international friction and be disregard for the lives and properties of American citizens and develop further unhappiness for the Mexican people, but there will continue to be raised collateral issues, or feigned issues, of

more or less annoying kinds. We have seen the attitude taken by the Mexican government in connection with Nicaraguan matters. We know how the cry of "Yankee imperialism" is being raised in Mexico, and caused to reverberate throughout the Western hemisphere. We may expect other developments of like nature.

So shrewdly, at times, has the Mexican government played up the alleged feeling against the United States in Latin America, that it has succeeded in making some of our people accept the existence of such a feeling as a fact, and to bow their heads in humility because we happen to be a rich and powerful nation. The writer has been to some pains in efforts to find out just how much basis, if any, there is for the suggestion that we are out of favor among the peoples south of us. As a result he is of the opinion that, so far as those peoples generally are concerned, there is no basis for any such suggestion. There are forces at work to stir up feeling against this country; but in spite of all their propaganda, decidedly radical for the most part in origin and tendencies, they have not succeeded in making any great headway.

We are, it is true, a rich and powerful nation; but there should be nothing humiliating to citizens of the United States in that fact alone. Our wealth and power might prove sources of humiliation to us only if we were, on the one hand, to misuse them, or, on the other hand, to fail to use them in the common

interest of our own citizens and the unfortunate peoples of other lands, to secure justice for ourselves and a greater measure of freedom and happiness for them.

Toward this common goal—for there is in none of these issues any conflict of interest between the United States or its citizens and the peoples of these other nations—we shall have made a measurable approach if and when our government and our people shall have correctly appraised the policies and real purposes of the Mexican government, and, making practical application of past experiences, shall have convinced it that we do not look upon them with approval.

APPENDIX

I

Since the date of this article, the president of Mexico has promulgated amendments to the petroleum regulations; and upon the publication of such regulations the Department of State issued an official statement as follows:

> The Petroleum Regulations just promulgated by President Calles constitute executive action which completes the process beginning with the decision made by the judicial branch of the Mexican Government on November 17, 1927, and followed by the enactment of the new Petroleum Law by the legislative branch on December 26th last. Together, these steps, voluntarily taken by the Mexican Government, would appear to bring to a practical conclusion discussions which began ten years ago with reference to the effect of the Mexican Constitution and laws upon foreign oil companies. The Department feels, as does Ambassador Morrow, that such questions, if any, as may hereafter arise can be settled through the due operation of the Mexican administrative departments and the Mexican courts.

In so far as the regulations are consistent with the constitution of Mexico, the decisions of its Supreme Court, and the Petroleum Law enacted by the legislative branch, they are, of course, no more favorable to the oil companies than are the constitution, the decisions, and the law themselves. In so far as they may be inconsistent with the constitution, decisions, and law, they cannot, of course, supersede those decisions and provisions or hold forth any assurance to the companies that later those pronounce-

ments having the greater sanctity will not be held to be the ones by which the rights of the companies shall be measured, regardless of the regulations.

In these circumstances, the significance of the official pronouncement of the Department of State is apparent. If its discussions with the Mexican government on this subject have been brought to a "conclusion," and the questions which may arise in the future are to be settled solely "through the due operation of the Mexican administrative departments and the Mexican courts," whose duty primarily is to enforce the laws of the land as they stand, the oil companies seem to have scarcely any choice but to accept the situation and apply for "confirmation" of their rights in respect to lands in connection with which positive acts were performed prior to May 1, 1917. It is in this sense, presumably, that the Mexican oil controversy is now again described as "settled."

In figures, the meaning of this "settlement" may be expressed approximately as follows:

The area of Mexico is stated by various authorities to be 760,000 square miles, more or less—about 486,000,000 acres.

Early in 1927 the Mexican government fixed the areas covered by applications for confirmatory concessions, and those on which the oil rights were susceptible of confirmation, at about 28,500,000 acres. This figure is undoubtedly much too high, but may be taken for present purposes.

According to these figures, all private petroleum rights in 457,500,000 acres have been wiped out by the doctrine of "positive acts"; and the petroleum rights in the remaining 28,500,000 acres must by January 11, 1929, be brought under government

confirmatory concessions or will be considered as "renounced."

In this case the proof of the "settlement" will be in its effect upon the industry. It remains to be seen whether the troublesome controversy has been "settled" in a manner which will inspire that confidence necessary to induce capital to undertake a rehabilitation of the industry, so that instead of the approximately $6,500,000 present annual revenue it may again yield to the Mexican government, in production and export taxes, the approximately $43,000,000 it yielded six years ago.

II

On June 19, 1928, the Department of State announced that a neutral member for these claims commissions had been designated by the Minister of Foreign Affairs of the Netherlands. The Hague Convention provides that the Netherland Minister for Foreign Affairs shall be president of the Permanent Administration Council. This appointment indicates, therefore, that the two governments were unable to agree upon a neutral member.

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[1] *Díaz, Master of Mexico*, p. 397.

[2] Los Angeles, 1921.

[3] Eduardo Pallares, *Colección de codigos y leyes federales sobre tierras, bosques, aguas, ejidos, colonización* (Mexico, Herrero Hermanos Sucesores).

[4] Constitution of 1917, Art. 27 (translation by H. N. Branch, American Academy of Political and Social Science, Philadelphia).

[5] Little, *The Land Laws of Mexico.*

[6] *Letters of Rosalie Evans.* New York: Bobbs Merrill & Co., 1926.

[7] *Diario oficial* (January 21, 1926); reprinted together with translation and regulations in *Bulletin of the National Association for the Protection of American Rights in Mexico* (New York).

[8] Official correspondence as released by the Department of State, April 10, 1926, reprinted in pamphlet form by the Association of Producers of Petroleum in Mexico, 17 Battery Place, New York.

[9] Note of the Mexican Minister of Foreign Affairs to the Secretary of State, dated March 27, 1926.

[10] *Current History* (New York, June, 1926), p. 338.

[11] *Legislación petrolera* (published by Department of Public Education in Mexico City, 1922), I, p. 7.

[12] *Ibid.*, p. 8.

[13] *Ibid.*

[14] The committee of oil executives arrived in Mexico City on August 29. The decision in the Texas Company case was announced August 30. What was then understood in Mexico City regarding the scope of the decision

is indicated in the dispatches to the American newspapers. For example, a special cable to one New York paper said: "The decision will end the oil disputes."

[15] *New York Times* (October 16, 1924).

[16] Statement issued by Mexican Embassy in Washington, *United States Daily* (Washington, March 2, 1927).

[17] *Proceedings of the United States and Mexican Commissions Convened in Mexico City—May 14, 1923.* Washington: Government Printing Office.

[18] Reprinted in *Public Documents* and also in pamphlet form by the Association of Producers of Petroleum in Mexico, New York.

[19] Note of Secretary of State to the Mexican Minister for Foreign Affairs, dated October 30, 1926.

[20] In a statement of facts concurred in by the Mexican commissioner in the case of the United States of America on behalf of the *Home Insurance Company* v. *United Mexican States*, decided March 31, 1926, by the General Claims Commission, there are some interesting data on this point. De la Huerta had been chosen presidential candidate of the co-operative party at a Convention attended by more than 2,500 delegates from every state and territory except Lower California, and including a majority of the Chamber of Deputies. This Convention "repudiated Calles and Obregón, two of the founders of the Party." The statement of facts goes on to say that De la Huerta "took the field with this strong political following," and by the latter part of December, 1923, in at least eleven states, governments favorable to the De la Huerta movement had been established, his forces had advanced practically two-thirds of the way from Vera Cruz to Mexico City, and his armed forces numbered approximately 56,000 including 25,000 who had gone over to him from the army. The statement continues: "The Government of the United States placed an embargo on all arms and ammunitions and supplies destined for the rebel forces. . . . . Apparently from this time on De la Huerta experienced difficulty in raising funds

with which to prosecute his campaign and his organization began to crumble." It is a matter of fact, although not mentioned in this decision, that about this time also the United States government furnished arms and other military supplies to the Obregón government, this having been announced in the *New York Times* (Dec. 30, 1923). Observers in position to know have reported that it was the moral effect of the knowledge that the government of the United States had determined to lend its support to the Obregón government that caused the De la Huerta organization to "crumble."

[21] *The Seminar on Relations with Mexico* (Boston), p. 40.

[22] Although Carranza was overthrown in 1920 by a movement headed principally by Obregón and Calles, the three are quite properly referred to as the Carranza-Obregón-Calles group; they were as one in formulating the policies which have given rise to the present controversies between the United States and Mexico and brought misfortune to the Mexican people; and the last two of the group, succeeding to the presidency through the elimination of the first member, have continued to pursue those policies.

[23] Note of Secretary of State to the Mexican Minister for Foreign Affairs, October 30, 1926.

[24] Address before the Rhode Island Branch of the Foreign Policy Association, Providence, February 19, 1927.

[25] *El Universal* (Mexico City, January 27, 1927).

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